IN RE: PETITION FOR VARIANCE NW side of Belair Road and NE side of Pinedale Drive 11th Election District 5th Councilmanic District **(9414 Belair Road)** 9414 Belair Road LLC, S. Patrick Kennedy, Member *Petitioners*	* * * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 07-285-A

* * * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, 9414 Belair Road LLC, S. Patrick Kennedy, Member. The Petitioners are requesting variance relief for property located at 9414 Belair Road. The variance request to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed, and other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or in the alternative for the same sign to permit along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

The property was posted with Notice of Hearing on January 30, 2007 for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief and time and date of the public hearing. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on February 1, 2007 to notify any interested persons of the scheduled hearing date and relief requested.

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 1, 2007

9414 BELAIR ROAD LLC
S. PATRICK KENNEDY, MEMBER
2613 GUNPOWDER ROAD
FALLSTON MD 21047

Re: Petition for Variance
Case No. 07-285-A
Property: 9414 Belair Road

Dear Mr. Kennedy:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner

JVM:pz

Enclosure

c: Howard Alderman, Esquire, Levin & Gann, 502 Washington Avenue, 8TH Floor, Towson, MD 21204
Geoffrey Schultz, Mckee & Associates, Inc., 5 Shawan Road, Suite 1, Cockeysville MD 21030
Cathy Werner, 2613 Gunpowder Farms Road, Fallston MD 21047
Olga Chesser, 9110 Deviation Road, Baltimore MD 21236
Dennis Eckard, 39 Bangersave, Perry Hall MD 21128
Missy Wolinski, 814 Creek Road, Baltimore MD 21236
Carl Richards, Supervisor, Zoning Review

Applicable Law

Section 307 of the B.C.Z.R. – *Variances.*

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated January 25, 2007. That Office is of the opinion that the request can be justified provided the Petitioner remove the 'balloon' proposal from the sign detail. Balloons and banners shall not be permanently permitted on any proposed or existing signage.

Interested Persons

Appearing at the hearing on behalf of the variance request were Geoffrey Schultz, with McKee & Associates, Inc., who prepared the site plan, as well as Patrick Kennedy, Cathy Werner, Olga Chesser, Dennis Eckard, Missy Wolinski. Howard Alderman, Esquire, represented the Petitioner. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property contains 0.6 acres zoned RO and is improved by an existing two story office building whose principal tenant is REMAX Realtors as shown in exhibit 1. Mr. Alderman indicated that the Class B office building was allowed by special exception in Case No. 02-551-XA (exhibit 3). The property is located at the intersection of Belair Road (Md. Rt. 1) and Pinedale Drive. The Petitioners would like to erect a sign listing the tenants on Belair Road as shown in the sign detail. This sign meets all sign regulations as to size and height and conforms to the Restrictive Covenants between the Petitioner and the Perry Hall Improvement Association (exhibit 5). Case No. 02-551-XA allowed a non illuminated free standing sign 15 square feet in size and 6 feet in height all of which the proposed sign meets.

Directory Sign

The need for variance arises because the proposed sign shown in the sign detail of exhibit 1, has letters that exceed the allowed height of 2 inches for tenant names as specified in Section 450.4 which in turn refers to Section 450.7 A 1. The proposed lettering is 2.250 inches in height. In addition "other lettering" may not be larger than 3 inches in height. The proposed sign has "other lettering" as 4 and 6 inches in height. Mr. Alderman presented photographs of the many signs in the immediate area which exceed the lettering size specified in the regulations as exhibit 4. He also observed that Belair Road is a major arterial roadway on which motorist regularly exceed the posted speed limit of 40 mph. Consequently he opined that larger letters are justified for the safety of the public.

He noted that the Zoning Office is opposed to the proposed sign as a directory sign as Section 450.7.A 2 does not list RO as a zoning classification in which directory signs are permitted. In addition the proposed sign has advertising and a REMAX logo of a balloon

included on the sign. The Planning Office supports the request for larger letters given the intensity of the land use in the area but requests the balloon be deleted from the sign. Mr. Alderman indicated that the balloon is not in any way an actual balloon but a trademark symbol of REMAX which is specifically allowed by the definition of "Sign" in Section 450.3.

In the alternative, Mr. Alderman indicated that the proposed sign would qualify as an enterprise sign under Section 450.4 Table of Sign Regulations, Part 5 (m), which allows one free standing sign in an RO zone of the size and height proposed in the "additional limitations" column. However this approach has a zoning problem as well. Although the size of the letters is not restricted, and the sign would face residentially zoned property which is not allowed under the "additional limitations" column. He noted in 2000 the Council changed the zoning on this property to RO and in 2004 included RO as a "residential zone" in the definition section of the regulations. This sign faces RO property and DR 3.5 zoned property to the north as well as RO property and ROA zoned property to the south, all of which are residential zones.

Mr. Alderman noted again that the sign size was specifically negotiated with the community association as reflected in the Restrictive Covenants, that Belair Road has high travel speeds, and the property an irregular shape. Consequently he opined the property was unique from a zoning perspective. He indicated that the requested sign was the minimum needed, the public needs to find the tenants safely, and there will be no adverse impact on the community. Mr. Eckart supported the request.

Findings of Fact and Conclusions of Law

I have no reason to deny the Petitioner's a freestanding sign on Belair Road announcing the tenants of the building. The sign meets the size approved in Case No. 02-551-XA. It meets the spirit and intent of the agreement of the Petitioner with the Perry Hall Improvement

Association. The problem is that the sign proposed in the sign detail in exhibit 1 does not fit easily into the present sign regulations.

By far the most desirable sign for this location and in this situation would be a directory sign and not an enterprise sign. I accept the fact that travel speed on Belair Road is 40 + mph and slightly larger letters than specified in Section 450.7.A.1 are appropriate.

The primary problem with proceeding under the directory sign subsection is that the Zoning Office has apparently taken the position that the freestanding sign proposed in this case is not a directory sign and as such is not listed in Section 450.7.A.2 as a zone in which directory signs are allowed.

In regard to the latter concern I note that BCZR Section 450.4 "Table of Sign Regulations" subsection 4, Directory signs, clearly indicates that directory signs are allowed *in all zones*. I find that the referred listing of certain zones in Section 450.7.A.2 is not a definitive list of zones in which directory signs are allowed but rather additional (or limiting) qualifications in these enumerated zones requiring tenants have direct outside access. Not finding the RO zone among this list simply means that there are no access limitations for directory signs in RO zones.

The next issue is whether or not the sign presented in the sign detail of Exhibit 1 is in fact a directory sign. As far as I can determine the Zoning Office views directory signs as those one would encounter on entering a large office complex which list the tenants of a building but are not on a public street. Perhaps each building would have a directory sign whether freestanding or wall mounted. This is supported by Section 450.7.A.3 which requires 25 feet between directory signs. Finally the definition of directory signs specifies it is an "accessory sign" which again indicates the intention of the regulation is for minor signs in a large complex listing tenants in a given building. In addition a directory sign would not have the REMAX balloon or the other

advertising features presented on the proposed sign. Finally Zoning Review sees Section 450.8.A.2 as prohibiting a new sign class not otherwise allowed which they interpret the proposed sign to be if considered a directory sign.

As I understand the situation the Zoning Office apparently sees the proposed sign as an enterprise sign because it is not simply a listing of tenants of the building, because of its size and location on a main street. They review the Table of Sign Regulations, subsection 5, and find the only place enterprise signs are permitted in an RO zone is in sub subsection (m). This lists wall mounted signs under "structural type" but also allows freestanding signs if the sign does not face a residential zoned property under the column of "additional limitations". They approach the problem generally from the historical position that no free standing signs were allowed in an RO zone when that zone was originally created. However it appears that this prohibition was removed by Bill 89-1997 which now specifies that signs are permitted subject to Section 450, the general sign regulation.

Considering the above observations and argument of Counsel, I note that the first question is whether the proposed sign is a directory sign? The sign proposed certainly lists the tenants but then has the words "American Dream" and the REMAX balloon logo as well. These are not tenant listings. Also directory signs are to be accessory to what? To another sign? If so, directory signs would be lesser in size and scope to a principal structure perhaps such as an enterprise sign announcing and advertising the property? Or is a directory sign accessory to the use of the property generally such as office use?

From my perspective if the sign simply said "REMAX Realtors" along with the other tenants it clearly would be a directory sign even if freestanding on the street. I see no reason that a directory sign cannot be seen from the road or is along the right of way. But this is not what is

proposed. REMAX wants to advertise the "American Dream" and its trademark balloon as well in "other letters" which far exceed the size given in the regulations. If so, it would appear to be an enterprise sign as the Zoning Office contends. However an enterprise sign in the RO zone would be allowed facing only non residentially zoned property. This sign clearly faces residentially zoned property. This would amount to a use variance which this Commission is not allowed to do.

My solution to this peculiar problem is to find that the sign proposed with certain changes qualifies as a directory sign which is allowed in all zones including RO. However the sign must list only the tenants and cannot contain advertising such as the words "American Dream". I accept Counsel's observation that the REMAX balloon logo is allowed along with letters under the definition of "sign". I find that the logo can be primarily a means of identification and not advertising if it is small enough. Consequently the balloon logo can appear as "other letters" in the sign but there is no need to greatly exceed the 2.250 inch height size which the Petitioner has asserted as sufficient for identification purposes

In summary given the speed of travel on Belair Road, I will approve the variance to allow letters of tenants to be 2.25 inches in height in lieu of the required 2 inches. However I will deny the request for variance for larger size of "other letters" in regard to size.

For the letter size variance granted, I find that the property is unique given its location on a major roadway, and multiplicity of signs in the area. *Cromwell v Ward* recognizes "practical restrictions imposed by abutting properties (such as obstructions) as evidence of the uniqueness of property. Such as are evident here. Therefore I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request which impact this property disproportionately.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Given the travel speeds along Belair Road there would be a hardship on the traveling public to locate tenants in the building if the regulations were strictly enforced.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. A 15 square foot sign has been approved by the prior zoning case and the Perry Hall Improvement Association.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, this 1st day of March, 2007 by this Deputy Zoning Commissioner, that the Petitioner's variance request from Section 450.7.A.1 to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed, and to amend the site plan and sign detail in Case No. 02-551-XA accordingly, is hereby GRANTED subject to the following conditions:

1. The Petitioner may apply for its permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition; and
2. There shall be no advertising on the sign. The words "American Dream" shall be deleted.
3. The REMAX balloon logo is permitted either in tenant lists or other letters but shall not exceed 2.25 inches in height if included in tenant listing and 3 inches in height if in other letters.

IT IS FURTHER ORDERED that the Petitioner's request for variance from Section 450.7.A.1 to allow "other lettering" up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or to permit a freestanding, non-illuminated, double-faced enterprise sign, along a principal arterial, adjoining and/or facing 'residentially' zoned property, is hereby DENIED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

A. Situated in an integrated park setting on, within, contiguous or adjacent to and affiliated with an institution of higher education as defined in Section 10-101 of the Education Article of the Annotated Code of Maryland;

B. Located in an O.T. Zone; and

C. Used for:

1. Computer and data processing services;

2. Laboratories;

3. The manufacture, assembly, service or repair of any product listed in Section 209.3.A.7;

4. Offices;

5. Research institutes;

6. Warehouses in combination with and physically attached to any of the above uses, if the warehouse accounts for no more than 30% of the total gross floor area;

7. Television studio;

8. Supporting infrastructure for any of the above uses; or

9. Any combination of such uses.

RESIDENTIAL ART SALON — A portion of a dwelling unit used for the exhibition and sale of original works of art. For the purposes of these regulations, an "original work of art" shall include a numbered reproduction from a series of no more than 50, which reproduction is individually signed by the artist. A "residential art salon" does not include a photographic studio, a tattoo or body piercing establishment, or any place where an indelible mark or figure is placed on a person by needle insertion of pigment under the skin or where the skin is pierced for the purpose of inserting an object. **[Bill Nos. 85-1967; 32-1978; 76-1997]**

§ 101

RESIDENTIAL ZONE — A zone classified as R.C., D.R., R.O., R-O-A or R.A.E. "Zoned for residential purposes"; within a residential zone. **[Bill Nos. 98-1975; 170-1991; 149-2004]**

RESTAURANT, CARRY-OUT — An establishment whose principal business is the sale of ready-to-consume food and beverages to customers who order their food and beverages over the counter, by telephone or by fax machine and whose principal characteristic is that food and beverages are consumed off the premises. **[Bill No. 110-1993]**

RESTAURANT, FAST-FOOD — An establishment whose principal business is to sell ready-to-consume food and beverages in disposable containers and which is not a drive-in restaurant. A fast-food restaurant has some or all of the following characteristics:

Prepackaged frozen, chilled or sealed food and meals are cooked in advance for immediate sale.

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BOARD OF APPEALS

204.3 C. Signs and off-street parking requirements.

1. Signs are permitted, subject to Section 450. **[Bill No. 89-1997]**

2. Off-street parking spaces shall be provided in accordance with Section 409. To the extent possible, parking shall be located in the side or rear yards of the lot. All required parking spaces shall be provided on the same lot as the structure or use to which they are accessory.

204.4 Bulk regulations of R-O Zones. Uses permitted as of right or by special exception are governed by the following bulk regulations: **[Bill No. 186-1994]**

A. Uses permitted under Sections 204.3.A.1 and 204.3.B.1 and new structures accessory to Class A office buildings are governed by the bulk regulations of D.R.5.5 Zones.

B. Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original building.

C. Class B office buildings.

1. Maximum floor area ratio: 0.33.

2. Maximum height of structure: 35 feet.

3. Minimum front yard setback: 25 feet or the average of the setbacks of the adjacent structures, whichever is less.

4. Minimum side yard setbacks: 10 feet, except if the adjacent property is predominantly residentially zoned, residentially used, or is adjacent to a residential street, in which case the setback shall be 20 feet.

5. Minimum rear yard setback: 30 feet.

6. Amenity open space: 7% of the interior of the parking lot, not including setback and buffer area requirements, shall be pervious land area in association with plantings.

7. Maximum lot size: one acre, except that if located on a principal arterial and if there is adjacent nonresidentially used or nonresidentially zoned frontage, the maximum lot size may be two acres.

8. The office building shall be the only principal building on the lot on which it is situated and shall not be attached to another building.

9. Landscape requirements. In addition to the requirements set forth in the Baltimore County Landscape Manual:

a. All parking and dumpster areas which abut a residential zone shall be screened by an opaque fence, wall or berm in association with plantings.

b. The minimum screening height shall be five feet.

STREET ADDRESS — The numerals or letters designating the address assigned to a premises. A "street address" may also include the name of the street on which a premises is located.

TEMPORARY SIGN — A sign constructed of cloth, fabric or other lightweight material, with or without a structural frame, that is intended to display a message for a limited period of time. A "portable sign" shall not be considered a "temporary sign" for the purpose of these regulations.

UNIMPROVED LOT — A lot recognized on a recorded plat but not yet conveyed to a third party. **[Bill No. 97-1998]**

VISIBLE — Refers to a sign that is capable of being seen, legibly or not, without visual aid, by a person with normal eyesight.

450.4 Table of Sign Regulations. The following table specifies the allowable combinations of sign classes and sign types, along with the use, permit, area, height and other pertinent limitations. Each column in the table has a Roman numeral heading, along with a corresponding summary title. The following descriptions of each summary title are incorporated into the table:

A. Class (I): The entries in this column identify and define the various categories of signs. Each sign must be categorized in a single class. For any sign that meets the definition of more than one class, the more restrictive class will control. **[Bill No. 97-1998]**

B. Structural Type (II): The entries in this column identify the various structural types of signs, as defined in Section 450.5, which may be used to display signs in a given class, subject to the limitations in the succeeding columns.

C. Zone or Use (III): The entries in this column establish the zone(s), e.g., B.M., B.R., etc., in which signs of the various class and structural type combinations may be displayed. In certain cases, a sign's permissibility is associated with a particular land use, e.g., farm market, in whichever zone(s) such use is otherwise permitted by the Zoning Regulations.

D. Permit Required (IV): The entries in this column indicate whether a specific permit is required for erection or maintenance of a sign. "None" indicates that a permit is not required, provided that the sign complies with all other applicable provisions of this section. "SE" indicates that each sign is permitted only as a special exception use authorized pursuant to Section 502 of the Zoning Regulations. "Use" indicates that a use permit for each sign must be obtained pursuant to Section 500.4 of the Zoning Regulations. **[Bill No. 97-98]**

E. Maximum Area/Face (V): The entries in this column establish the maximum area, in square feet, or the formula for calculating the maximum area, permitted within the face of each sign in a given class, regardless of structural type. Unless otherwise expressly stated, the maximum area is considered the limit for each sign face if more than one sign is permitted in Column VI. If double-faced signs are erected, only one face area is counted toward the maximum area allowed. For

freestanding signs, the maximum area may be increased pursuant to Section 450.5.B.4.d.

F. Maximum No./Premises (VI): The entries in this column establish the maximum number of separate signs in a given class, or the formula for determining the maximum number, which may be displayed on a single premises. Unless otherwise provided, the maximum number of signs applies to any combination of signs included in each separate lettered paragraph under Column II. A double-faced sign is considered one sign. Where a sign is permitted on the basis of a building, frontage or vehicular entrance, the sign must be erected only upon the building or frontage, or at or near the vehicular entrance, for which it is permitted.

G. Maximum Height (VII): The entries in this column specify the maximum allowable height for freestanding signs only, subject to the additional limitation in Section 450.5.B.4.c.

H. Illumination (VIII): The entries in this column indicate whether a sign may be illuminated, subject to the requirements of Section 450.6.B.

I. Additional Limitations (IX): The entries in this column indicate additional limitations or identify cross-references to applicable sign provisions elsewhere in Section 450.

(Cont'd on page 4-133)

TABLE OF SIGN REGULATIONS
PERMANENT SIGNS
(continued)

I	II	III	IV	V	VI	VII	VIII	IX
Class	**Structural Type**	**Zone or Use**	**Permit Required**	**Maximum Area/Face**	**Maximum No./Premises**	**Height**	**Illumination**	**Additional Limitations**
2. **COMMUNITY**, meaning a sign displaying the identity of a subdivision or residential community	Wall-mounted; Freestanding	All zones	Use	25 square feet	Not applicable	6 feet	Yes	Maximum two signs per highway intersection
3. **DIRECTIONAL**, meaning a sign intended principally for traffic control or to provide directions to an entity, activity or area elsewhere on the same premises	Wall-mounted; freestanding	Accessory, in all zones	Use	3 square feet	Not regulated	6 feet in nonresi-dential zones; 4 feet in residential zones	Yes	See Section 450.6.A.1 and A.2. May include company name or logo if not more than 30% of the total sign area
4. **DIRECTORY**, meaning an accessory sign displaying the identity and location of the nonresidential occupants of a building or development	Wall-mounted; freestanding	All zones; See Section 450.7.A	Use	Not regulated, except 25 square feet in S-E Zone	Not regulated	6 feet	Yes	See Section 450.7.A

B. Illumination. Illuminated signs are subject to the following:

1. The light emanating or reflecting from, or projecting onto, a sign shall be shaded, shielded or directed so that its intensity does not cause a glare or a similar adverse effect on neighboring properties, highways or parking areas.

2. Projected illumination must be reasonably confined to the face of the sign.

3. Except for that portion of a changeable copy sign displaying time or temperature, all elements illuminating a sign shall operate at a constant intensity so that no sign has the appearance of movement or of being illuminated by flashing, blinking, strobing, oscillating or alternating lights.

4. A sign may be displayed with reflectorized surfacing if illumination is prohibited.

C. Erection and maintenance.

1. All signs shall be erected in accordance with the applicable provisions of the Baltimore County Building Code.

2. All signs, including structural framework or supporting elements, shall be securely erected and maintained in a safe and presentable condition at all times through replacing defective, missing or damaged parts; cleaning; painting; or other acts necessary for proper upkeep, provided that maintenance may not be used to alter a sign's character to the extent that it is no longer permitted at its location.

3. For a lawfully erected sign, a building or use permit or a special exception is not required for changing the sign's face only, provided that this does not alter the sign's character to the extent that it is no longer permitted at its location.

450.7 Special requirements for particular classes.

A. Directory signs. In addition to the limitations of Section 450.4, directory signs are subject to the following:

1. The lettering on a directory sign indicating the names and locations of occupants may not be larger than two inches high. Other lettering may not be larger than three inches high.

2. In an OR-1, OR-2, O.T., M.R., M.L.R. or M.L. Zone, a directory sign is permitted if at least 75% of the tenants or functions have independent direct outside access to the building.

3. There must be a minimum 25 feet of separation between directory signs located on a single premises.

B. Changeable copy signs. In addition to the limitations of Section 450.4, changeable copy signs accessory to a planned shopping center or any separate commercial establishment in a business zone are subject to the following:

TABLE OF SIGN REGULATIONS
PERMANENT SIGNS
(continued)

I	II	III	IV	V	VI	VII	VIII	IX
Class	**Structural Type**	**Zone or Use**	**Permit Required**	**Maximum Area/Face**	**Maximum No./Premises**	**Height**	**Illumination**	**Additional Limitations**
ENTERPRISE, (cont'd)	(l) Wall-mounted; freestanding	Farmer's roadside stand, farm market, commercial agriculture or farm produce stand	Use	25 square feet total for all signs	Not regulated	6 feet	Yes	Minimum 10 feet setback from right-of-way and 75 feet from highway intersection center lines
	(m) Wall-mounted; projecting	Elderly housing facility in D.R., commercial use in D.R., R.C., R-O-A, R.O., R.C.C., B.M.Y.C.	Use	8 square feet; 6 square feet in R-O-A, 1 square foot in D.R.	One		No, but Yes for tearoom or restaurant	In R-O, may also have 15 square feet freestanding sign 6 feet high if on principal arterial adjoining and facing non-residentially zoned property; in R-O-A may also have 12 square feet freestanding monument sign, maximum height of 6 feet, including a 2-foot-high monument,

"IDENTITY" – SEE NEXT PAGE

DEALERSHIP — A commercial business organization licensed by the state to sell new motor vehicles. For the purpose of Section 450, the term "new motor vehicles" includes new "two-stage vehicles" as defined by state law.[2]

DOUBLE-FACED — Two freestanding, projecting or banner sign faces of equal dimensions and height having a horizontal angle between the vertical planes of the two sign faces of at least 330° or less and a distance between the two sign faces at their closest points of less than two feet.

ERECT — To display, construct, build, raise, assemble, place, affix, attach, paint, draw or otherwise bring a sign into being. "Erect" also means to reconstruct, enlarge, replace or relocate a sign previously erected. "Erect" does not mean the maintenance or repair of a sign governed by Section 450.6.C.

FACE — The flat planar surface within a continuous perimeter enclosing the outer limits of the message of a sign.

FRONTAGE — A lot line of a premises which is co-terminous with a right-of-way line of a highway to which the premises has or would be allowed pedestrian or vehicular access.

HEIGHT — The vertical distance from the highest point on a freestanding sign to the horizontal projection of the closest point at grade. In instances where it is evident that the grade has been artificially built up above the natural or surrounding finished grade, the vertical distance will be measured by projecting the natural or surrounding finished exterior grade to the closest point of the freestanding sign.

HIGHWAY — A street, road, motorway, expressway, freeway, alley, sidewalk, walkway or similar public facility used for vehicular or pedestrian travel, excluding a pedestrian concourse within an enclosed mall or any sidewalk on private property.

IDENTITY — The name of a person, organization or place displayed on a sign, including the street address or the trademark, logotype, initials or other symbol customarily associated with the name.

ILLUMINATION — The use of artificial light emanating from a sign, or directed at a sign from one or more sources external to the sign face, which makes the sign visible or more readily legible during non-daylight hours.

INSTITUTIONAL STRUCTURE — A hospital, school, volunteer fire company, church, house of worship or religious assembly.

MANSARD — An architectural element having a roof-like appearance which is above a building wall and has a slope of not less than 30° measured from the lowest to the highest point of the mansard.

MESSAGE — A communication, statement or display of information or ideas through written words, letters, numerals, symbols,images, colors, illumination or

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2 **Editor's Note: See § 13-113.2 of the Transportation Article of the Annotated Code of Maryland.**

CASE #: 07-285-A

IN THE MATTER OF: 9414 BELAIR ROAD, LLC –LO; S. PATRICK KENNEDY, MEMBER 9414 Belair Road 11th E; 5th C

VAR – To permit non-illuminated, double-faced directory sign, with lettering for names and locations of occupants up to 2.25" ilo 2" allowed and other lettering up to 4" and 6" ilo 3" allowed; or IN ALTERNATIVE, for same sign to permit, along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and/or facing "residentially" zoned property.

3/01/07 –D.Z.C.'s decision in which requested relief was DENIED.

12/03/07 --Notice of Assignment sent to following; assigned for hearing on Thursday, February 7, 2008 at 10 a.m:

Howard L. Alderman, Jr., Esquire
Patrick Kennedy, Member / 9414 Belair Road LLC
Geoffrey C. Schultz, PLS /McKee & Associates, Inc.
Cathy Werner
"Auggie" Olga Chesser
Dennis Eckard
Missy Wolinski
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

2/07/08 – Board convened for hearing (Crizer, Stahl, Witt); concluded this date; brief memo to be filed by Counsel for Petitioner; deliberation to be scheduled.

CASE #: 07-285-A

IN THE MATTER OF: 9414 BELAIR ROAD, LLC –LO; S. PATRICK KENNEDY, MEMBER 9414 Belair Road 11th E; 5th C

VAR – To permit non-illuminated, double-faced directory sign, with lettering for names and locations of occupants up to 2.25" ilo 2" allowed and other lettering up to 4" and 6" ilo 3" allowed; or IN ALTERNATIVE, for same sign to permit, along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and/or facing "residentially" zoned property.

3/01/07 –D.Z.C.'s decision in which requested relief was DENIED.

12/03/07 --Notice of Assignment sent to following; assigned for hearing on Thursday, February 7, 2008 at 10 a.m:

Howard L. Alderman, Jr., Esquire
Patrick Kennedy, Member / 9414 Belair Road LLC
Geoffrey C. Schultz, PLS /McKee & Associates, Inc.
Cathy Werner
"Auggie" Olga Chesser
Dennis Eckard
Missy Wolinski
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

December 3, 2007

NOTICE OF ASSIGNMENT

CASE #: 07-285-A

IN THE MATTER OF: 9414 BELAIR ROAD, LLC –LO; S. PATRICK KENNEDY, MEMBER 9414 Belair Road 11th E; 5th C

3/01/07 –D.Z.C.'s decision in which requested relief was DENIED.

ASSIGNED FOR: THURSDAY, FEBRUARY 7, 2008 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

---

c: Counsel for Appellant /Petitioner : Howard L. Alderman, Jr., Esquire
Appellant /Petitioner : Patrick Kennedy, Member / 9414 Belair Road LLC

Geoffrey C. Schultz, PLS /McKee & Associates, Inc.

Cathy Werner
"Auggie" Olga Chesser
Dennis Eckard
Missy Wolinski

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

d with Soybean Ink
Recycled Paper

Requested: 6/19/07

APPEAL SIGN POSTING REQUEST

CASE NO. 07-285-A

9414 BELAIR ROAD, LLC

11th ELECTION DISTRICT APPEALED: 3/30/2007

ATTACHMENT – (Plan to accompany Petition – Petitioner's Exhibit No. 1)

*****COMPLETE AND RETURN BELOW INFORMATION******

CERTIFICATE OF POSTING

TO: Baltimore County Board of Appeals
400 Washington Avenue, Room 49
Towson, MD 21204

Attention: Kathleen Bianco
Administrator

CASE NO.: 07-285-A

LEGAL OWNER: 9414 BELAIR ROAD, LLC

This is to certify that the necessary appeal sign was posted conspicuously on the property located at:

9414 BELAIR ROAD

The sign was posted on 7/9/, 2007. MAP 29C5

By: _____
(Signature of Sign Poster)

Jeff Radcliffe
(Print Name)

Requested: 6/19/07

APPEAL SIGN POSTING REQUEST

CASE NO. 07-285-A

9414 BELAIR ROAD, LLC

11th ELECTION DISTRICT

APPEALED: 3/30/2007

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

March 30, 2006

HAND DELIVERED
Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue, Suite 111
Towson, Maryland 21204

Stamp here and initial indicating date appeal was filed:

RECEIVED
MAR 3 : 2007
Per.....

RE: 9414 Belair Road
9414 Belair Road, LLC Petitioner
Case No. 07-285-A
Notice of Limited Appeal

Dear Mr. Kotroco:

On behalf of my client, 9414 Belair Road, LLC, Petitioner in the above-referenced Case, an appeal of those portions of the March 1, 2007 decision of the Deputy Zoning Commissioner for Baltimore County DENYING RELIEF to the Petitioner is hereby noted to the County Board of Appeals for Baltimore County. This appeal does not include the relief that was APPROVED by the Deputy Commissioner. My client is both aggrieved and a [corporate] person feeling aggrieved by the Commissioner's decision. This appeal is authorized by *Baltimore County Code* §32-3-401 and I have enclosed this firm's check in the amount of $400 as the requisite filing fee that representatives of your department advised would be charged. If the enclosed fee is incorrect, please contact my office immediately so that the correct amount can be submitted.

Upon the docketing of this appeal, please transmit all required papers, exhibits and other evidence to the Board of Appeals. Should you or your staff need additional information to enable the prompt processing of this appeal, as always, do not hesitate to contact me at your convenience.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk
Enclosure
c: 9414 Belair Road, LLC
County Board of Appeals

9414 BELAIR ROAD, LLC
Case No. 07-285-A

I. Outline of legal authorities supporting Petitioner's Case:

A. Residential Office (**RO**)

1. Subject property is zoned RO

2. In 2002, RO zone was **not** classified as a residential zone

3. Special Exception for Class B office building was approved on subject property in **2002** – *See* Petitioner's Exhibit No. 3 - approval of special exception (Class B Building) and variance in Case No. 02-551-XA

4. In 2004, after Petitioner's building was under construction, County Council Bill added RO zone to the definition of Residential Zones [*See*, BCZR § 101 RESIDENTIAL ZONE -- A zone classified as R.C., D.R., **R.O.**, R-O-A or R.A.E. . . . . [Bill Nos. 98-1975; 170-1991; **149-2004**]

B. Signs in RO Zones:

1. Pursuant to BCZR § 204.3C.1, in RO zones, "Signs are permitted, subject to Section 450"

2. BCZR § 450.4 sets forth the "Table of Sign Regulations" for all zones

3. **Directory Signs**, pursuant to enumerated paragraph 4 of the Table of Sign Regulations, either wall mounted or **freestanding** are permitted in all zones, subject to the additional regulations of BCZR § 450.7.A

a. a "Directory Sign" means "an accessory sign displaying the identity and location of the nonresidential occupants of a building or development" (Table of Sign Regulations, ¶ 4, Column I)

b. BCZR § 450.7.A.1 limits the lettering on a directory sign as follows:

(1) the names and locations of occupants may not be larger than 2 inches high; and

(2) all other lettering is limited to 3 inches in height

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FEB 13 2008
BALTIMORE COUNTY
BOARD OF APPEALS

4. **Enterprise Signs**, pursuant to enumerated paragraph 5(m), **Column IX - Additional Limitations** of the Table of Sign Regulations, may be erected in the **RO** zone, limited to 15 square feet per face and 6 feet in height, if located on a principal arterial adjoining and facing non-residentially zoned property

   a. an "Enterprise Sign" means "an accessory sign which displays the **identity** and which may otherwise advertise the products or services associated with the individual organization" (Table of Sign Regulations, ¶ 5, Column I)

   b. BCZR § 450.3 defines "**Identity**" as the "**name** of a person, **organization** or place **displayed on a sign**, including the **street address** or the **trademark, logotype**, initials or **other symbol customarily associated with the name**."

C. Petitioner requests approval of an **enterprise sign** along Belair Road

   1. Belair Road is a principal arterial

   2. Sign face is limited to 15 square feet and 6 feet in height, **both** by the sign regulations (*see*, paragraph 4. above) **and by the *Restrictive Covenant and Improvements Agreement*** (Petitioner's Exhibit No. 4), between the Petitioner and the Perry Hall Improvement Association ("PHIA")

   3. The subject property adjoins and faces RO zones, which at the time of the Agreement with PHIA was **not a residential zone**

   4. At the time of the Agreement between the Petitioner and the PHIA, the parties contemplated an enterprise sign on the subject property and limited it to the height and face area allowed as of right (6 feet high, 15 square feet per face in area)

   5. Subsequent to the Agreement, RO zones were classified as residential, thus prohibiting enterprise zones unless a variance is obtained for <u>location</u>

   6. Approval of variance relief for the <u>location</u> of an enterprise sign facing or adjoining a residential 'zone' is just like obtaining a variance for the <u>location</u> of a garage or pool in the front yard – it is an area variance, <u>not a use variance</u>

   7. The 'uses' listed in BCZR § 450 (Sign Regulations) are the uses associated with a particular sign's permissibility; *See*, 450.4C. A variance to permit the <u>location</u> of an enterprise sign facing or adjoining other RO (residential) zoned areas is <u>not</u> a use variance

8. The requested **enterprise sign** is depicted in the lower left-hand corner of Petitioner's Exhibit No. 1.

D. Alternatively, Petitioner requests approval of a variance from the size limitations on letters/symbols on a **directory sign** displaying the identity and location of occupants of the building on the subject property, as depicted in the lower left-hand corner of Petitioner's Exhibit No. 1. The variance request is for lettering and symbols of 4" and 6" in height in lieu of the 3" permitted

E. Compatibility and Justification

1. Although compatibility is not a prerequisite, Petitioner has shown that its proposed sign is more than compatible with other signs in the immediate area and proposes lettering smaller than used by most other signs

2. The size of the lettering and symbols proposed is necessary for **safe and efficient identification of the occupants of the existing building** due to the speed and volume of traffic on Belair Road, just like other signs in the area

3. The proposed sign is compatible with the signs in the area and the Agreement reached between the Petitioner and the PHIA

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

February 13, 2008

HAND DELIVERED
Edward W. Crizer, Jr., Chairman
County Board of Appeals for Baltimore County
400 Washington Avenue, Suite 48
Towson, Maryland 21204

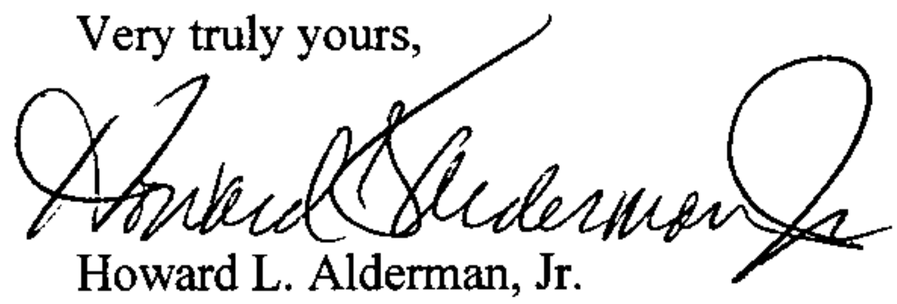
RE: 9114 Belair Road
Case No. 07-285-A

Dear Mr. Crizer:

At the conclusion of the Board's hearing in the above-referenced matter, the Board requested that I provide an outline of the legal points and authorities supporting the Petitioner's case **principally for approval of an enterprise sign** and, alternatively, approval of larger letters and required symbols on a directory sign. I have not repeated the Petitioner's uncontradicted and substantial evidence supporting both the principal and alternative variance relief. I have, however, in addition to the outline included a copy of the relevant potions of the *Baltimore County Zoning Regulations* referenced therein, highlighted for the Board's convenience.

I have enclosed an original and three (3) copies as normally requested by the Board for any submission. Should you or any member of the Board desire additional information in this regard, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosures (4)
c (w/1 encl.): 9414 Belair Road, LLC
Geoffrey C. Schultz, RPLS

RECEIVED
FEB 13 2008
BALTIMORE COUNTY
BOARD OF APPEALS

IN THE MATTER OF THE THE APPLICATION OF 9414 BELAIR ROAD, LLC. – LEGAL OWNER S. PATRICK KENNEDY, MEMBER FOR A VARIANCE ON PROPERTY LOCATED ON THE NW/S OF BELAIR ROAD AND NE/S OF PINEDALE DRIVE (9414 BELAIR ROAD) 11TH ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT	* * * * * * * * *	BEFORE THE COUNTY BOARD OF APPEALS OF BALTIMORE COUNTY CASE NO. 07-285-A

* * * * * * * * *

OPINION

This matter comes before the Board of Appeals of Baltimore County as an appeal filed by Howard L. Alderman, Jr., Esquire, on behalf of 9414 Belair Road, LLC, S. Patrick Kennedy, Member, Legal Owner /Petitioner, from a decision of the Deputy Zoning Commissioner dated March 1, 2007, in which Petitioner's requested variance relief was denied. Petitioners are requesting variance relief for property located at 9414 Belair Road. The variance request is to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed, and other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or, in the alternative, to permit, along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and/or facing "residentially" zoned property, all as shown more particularly on the Plat to Accompany this Petition, and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

There were no Protestants present at the hearing. Mr. Dennis Eckard was present and in support of the variance relief. Mr. Eckard is a resident of the area and a member of the Perry Hall Improvement Association, but he did not declare in what capacity he was present.

Mr. Alderman said Mr. Eckard was there to show approval of the Petitioner's request in Case No. 07-285-A, to which statement Mr. Eckard did not disagree.

The subject property contains 0.6 acre zoned R.O. and is improved by an existing two-story office building whose principal tenant is REMAX Realtors as shown in Petitioner's Exhibit No. 1. Mr. Alderman indicated that the Class B office building was allowed by special exception in Case No. 02-551-XA (Petitioner's Exhibit No. 3). The property is located at the intersection of Belair Road (MD Route 1) and Pinedale Drive. The Petitioners would like to erect a sign listing the tenants on Belair Road as shown in the sign detail (Petitioner's Exhibit No. 1). This sign meets all sign regulations as to size and height and conforms to the restrictive covenants between the Petitioner and the Perry Hall Improvement Association (Petitioner's Exhibit No. 5). Case No. 02-551-XA allowed a non-illuminated free standing sign 15 square feet in size and 6 feet in height all of which the proposed sign meets.

The need for variance arises because the proposed sign shown in the sign detail of Petitioner's Exhibit No. 1, has letters larger than the allowed height of 2.0 inches for tenant names as specified in *Baltimore County Zoning Regulations* (BCZR) §450.4, which in turn refers to BCZR §450.7A1. The proposed lettering is 2.25 inches in height. In addition "other lettering" may not be larger than 3 inches in height. The proposed sign has "other lettering" depicted as being 4 and 6 inches in height. Mr. Alderman presented photographs of the many signs in the immediate area that exceed the lettering size specified in the regulations (Petitioner's Exhibit No. 4). He also noted that Belair Road is a major arterial roadway on which motorists regularly exceed the posted speed limit of 40 miles per hour (mph). Consequently he opined that larger letters are justified for the safety of the public.

Mr. Alderman proffered that the Planning Office supports the request for larger letters given the intensity of the land use in the area but requested that the balloon be deleted from the sign. He indicated that the balloon is no way an actual balloon but a trademark symbol of REMAX, which is specifically allowed by the definition of "sign" in BCZR § 450.3.

Counsel indicated that the proposed sign would qualify as an enterprise sign under § 450.4, Table of Sign Regulations, Part 5(M), which allows one free-standing sign in an R.O. zone of the size and height proposed in the "additional limitations" column. The problem with this is that the property across the street is zoned R.O. and D.R. 3.5. The Baltimore County Council changed the zoning on this property in 2000, and R.O. was added to Residential Zones in 2004.

Mr. Alderman stated that the property was unique from a zoning point of view due to its irregular shape and change of zoning across the street. The Community Association also recognizes the site's uniqueness due to the negotiated Restrictive Covenants on this property, and supported the idea that there will be no adverse impact on the community and that public safety will improve, noting that Belair Road has high travel speeds in certain zones.

The Board feels that this piece of property is unique under the test for a variance as set out in *Cromwell v. Ward*, 102 Md.App. 691, 651 A.2d 424 (1995), which states in part:

> ...The Baltimore County ordinance requires "conditions ...peculiar to the land...and...practical difficulty...." Both must exist. ...However, as is clear from the language of the Baltimore County ordinance, the initial factor that must be established before the practical difficulties, if any, are addressed, is the abnormal impact the ordinance has on a specific piece of property because of the peculiarity and uniqueness of that piece of property, not the uniqueness or peculiarity of the practical difficulties alleged to exist. It is only when the uniqueness is first established that we then concern ourselves with the practical difficulties...." Id. at 698.

In requiring a pre-requisite finding of "uniqueness", the Court defined the term and stated:

> In the zoning context the "unique" aspect of a variance requirement does not refer to the extent of improvements upon the property, or upon neighboring property. "Uniqueness" of a property for zoning purposes requires that the subject property has an inherent characteristic not shared by other properties in the area, i.e., its shape, topography, subsurface condition, environmental factors, historical significance, access or non-access to navigable waters, practical restrictions imposed by abutting properties (such as obstructions) or other similar restrictions.... Id. at 710.

This Board also understands how serious this is for the Perry Hall Improvement Association to allow this Enterprise zone. Careful not to set a precedent in this area, the Board believes this decision will not do so, due to the uniqueness of the property and the cooperation of the Perry Hall Improvement Association.

Finally we find that the granting of a variance from BCZR §450.4.5.m, to permit along a principal arterial a free standing, non-illuminated, double-faced, enterprise sign, adjoining and/or facing "residentially" zoned property, all as shown more particularly on the Plat to Accompany the Petition, and the request to amend the site plan and sign detail in Case No. 02-551-XA, is consistent with the relief requested. This Board further finds that such additional relief as the nature of this case, as presented at the time of the hearing on this Petition, may require, may be granted within the spirit and intent of the BCZR. Also, the REMAX balloon logo that is trademarked shall be permitted.

ORDER

THEREFORE, IT IS, this 24th day of September, 2008, by the Board of Appeals of Baltimore County

ORDERED that the Petition for Variance seeking relief from §450.4 of the *Baltimore County Zoning Regulations* (BCZR) to permit along a principal arterial a free standing, non-illuminated, double-faced, enterprise sign, adjoining and/or facing "residentially" zoned property, all as shown more particularly on the Plat to Accompany the Petition and to amend the site plan and sign detail in Case No. 02-551-XA, is hereby **GRANTED**; and it is further

ORDERED that the request to permit the balloon logo that is trademarked by REMAX Realty be and is hereby **GRANTED**.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*.

COUNTY BOARD OF APPEALS
OF BALTIMORE COUNTY

Edward W. Crizer, Jr., Chairman

Lawrence Stahl

Robert Witt

CASE #: 07-285-A

IN THE MATTER OF: 9414 BELAIR ROAD, LLC –LO; S. PATRICK KENNEDY, MEMBER 9414 Belair Road 11th E; 5th C

VAR – To permit non-illuminated, double-faced directory sign, with lettering for names and locations of occupants up to 2.25" ilo 2" allowed and other lettering up to 4" and 6" ilo 3" allowed; or IN ALTERNATIVE, for same sign to permit, along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and/or facing "residentially" zoned property.

3/01/07 –D.Z.C.'s decision in which requested relief was DENIED.

12/03/07 --Notice of Assignment sent to following; assigned for hearing on Thursday, February 7, 2008 at 10 a.m:

Howard L. Alderman, Jr., Esquire
Patrick Kennedy, Member / 9414 Belair Road LLC
Geoffrey C. Schultz, PLS /McKee & Associates, Inc.
Cathy Werner
"Auggie" Olga Chesser
Dennis Eckard
Missy Wolinski
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

2/07/08 – Board convened for hearing (Crizer, Stahl, Witt); concluded this date; brief memo to be filed by Counsel for Petitioner; deliberation to be scheduled.

2/13/08 – Letter from Howard Alderman, Esquire – original and three copies of outline of legal points and authorities as requested by Board at conclusion of hearing in this matter on 2/07/08.

3/04/08 – Notice of Deliberation sent to parties this date; assigned for public deliberation on Thursday, March 20, 2008 at 9:00 a.m. FYI copy of Notice and copy of Mr. Alderman's submittal to panel members this date (7-2-6)

3/20/08 – Board convened for public deliberation; unanimous decision /variance request for enterprise sign granted; written opinion/order to be issued; appellate period to run from date of written Order. (7)

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 4, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

9414 BELAIR ROAD, LLC – LEGAL OWNER
Case No-07-285-A

Having heard this matter on 2/07/08, public deliberation has been scheduled for the following date /time:

DATE AND TIME : THURSDAY, MARCH 20, 2008 at 9:00 a.m.

LOCATION : Hearing Room #2, Second Floor, Jefferson Building

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : Howard L. Alderman, Jr., Esquire
Appellant /Petitioner : Patrick Kennedy, Member / 9414 Belair Road LLC

Geoffrey C. Schultz, PLS /McKee & Associates, Inc.

Cathy Werner
"Auggie" Olga Chesser
Dennis Eckard
Missy Wolinski

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Copy to: 7-2-6

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

September 24, 2008

Howard L. Alderman, Jr., Esquire
LEVIN & GANN, P.A.
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204-4525

RE: *In the Matter of: 9414 Belair Road, LLC – L.O. /Petitioner.; S. Patrick Kennedy, Member* / Case No. 07-285-A

Dear Mr. Alderman:

Enclosed please find a copy of the final Opinion and Order issued this date by the County Board of Appeals of Baltimore County in the subject matter.

Any petition for judicial review from this decision must be made in accordance with Rule 7-201 through Rule 7-210 of the *Maryland Rules*, **with a photocopy provided to this office concurrent with filing in Circuit Court. Please note that all subsequent Petitions for Judicial Review filed from this decision should be noted under the same civil action number as the first Petition.** If no such petition is filed within 30 days from the date of the enclosed Order, the subject file will be closed.

Very truly yours,

Kathleen Bianco/SC

Kathleen C. Bianco
Administrator

Enclosure

c: Patrick Kennedy, Member / 9414 Belair Road LLC
Geoffrey C. Schultz, PLS /McKee & Associates, Inc.
Cathy Werner
"Auggie" Olga Chesser
Dennis Eckard
Missy Wolinski
Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 27966

DATE 4·19·07 ACCOUNT 001·006·6150

AMOUNT $ 400.00

RECEIVED FROM: Howard Alderman

FOR: Appeal #07-285-A
9414 Belair Road

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS DATE	TIME	DRAWER
4/20/2007	[illegible]	

REG MSCL MAIL [illegible]
RECEIPT # [illegible] 4/19/2007 OR LP
Dept [illegible] ZONING VARIATION
OR NO. 27966
Receipt Tot [illegible]
[illegible] [illegible]
Balance Due [illegible]

CASHIER'S VALIDATION

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204

Return Service Requested

Hearing Date 3/20/08
9414
Belair Road
07-285-A

RECEIVED
MAR 10 2008
BALTIMORE COUNTY
BOARD OF APPEALS

MISSY WOLINSKI
814 CREEK ROAD
BALTIMORE MD 21236

**3-7-08BRL T1Q8 12FRST CLASTCL

PRESORTED
FIRST CLASS

Hasler

016H26512963
$00.334
03/07/2008
Mailed From 21204
US POSTAGE

X 212 NFE 1 307I 00 03/08/08
FORWARD TIME EXP RTN TO SEND
WOLINSKI'MISSY
6737 MOUNT VISTA RD
KINGSVILLE MD 21087-1344

RETURN TO SENDER

RRTRS21204@4921

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9414 BELAIR ROAD

which is presently zoned RO [MAP-072A1]

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

NONE
Name - Type or Print

Signature

Address | Telephone No.

City | State | Zip Code

Legal Owner(s):

9414 BELAIR ROAD LLC
Name - Type or Print

BY:
Signature

S. PATRICK KENNEDY, MEMBER
Name - Type or Print

Signature

2613 GUNPOWDER ROAD | 410-529-7900
Address | Telephone No.

FALLSTON | MD | 21047-2205
City | State | Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire
Name - Type or Print

Signature

Levin & Gann, PA Nottingham Centre, 8th Floor
Company

502 Washington Avenue | 410-321-0600
Address | Telephone No.

Towson, MD 21204
City | State | Zip Code

Representative to be Contacted:

GEOFFREY C. SCHULTZ, PLS McKEE & ASSOC., INC.
Name

5 SHAWAN ROAD, SUITE 1 | 410-527-1555
Address | Telephone No.

HUNT VALLEY | MD | 21030-1373
City | State | Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING —

UNAVAILABLE FOR HEARING —

Case No. 07-285-A

Reviewed By DMF Date 12-20-06

REV 9/15/98

31-01

07 285-A

Attachment 1
PETITION FOR VARIANCE

CASE NO: 07- -A

Address: 9414 Belair Road
Legal Owner: 9414 Belair Road, LLC

REQUESTED RELIEF:

In the alternative: i) a variance from BCZR § 450.4 and § 450.7A to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25" in size in lieu of the 2.0" allowed, and other lettering up to 4" and 6" in size in lieu of the 3" allowed; **OR** ii) a variance from BCZR § 450.4.5(m) to permit, along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested; and approve such additional relief as the nature of this case as presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR.

JUSTIFICATION:

A. Sign needed to identify property;
B. Speed and volume of traffic on principal arterial requiring adequate identification of occupants; and
C. For such further reasons that will be presented at the hearing on this Petition.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

07-285-A

McKEE & ASSOCIATES, INC.
Engineering • Surveying • Environmental Planning
Real Estate Development

ZONING DESCRIPTION OF 9414 BELAIR ROAD
11TH ELECTION DISTRICT
5TH COUNCILMAN DISTRICT
BALTIMORE, MD

BEGINNING for the same at the intersection of the Northwest side of Belair Road (Right-of-Way width varies) and the Northeast side of Pinedale Drive (50 foot wide Right-of-way), thence running along the Northwest side of Belair Road N42-27-07E 187.52 feet, thence running N79-09-04W 210.32 feet and S22-27-27W 122.79 feet to the Northeast side of Pinedale Drive, thence running along the Northeast of Pinedale Drive the three following courses and distances. 1) by a curve to the right, having a radius of 205.00 feet and an arc length of 60.90 feet, 2) S47-34-50E 44.57 feet, and 3) S89-16-46E 43.64 feet to the place of beginning.

CONTAINING 26,586 SF or 0.610 acres of land as recorded in Deed Liber 14147 Folio 30.

STATE OF MARYLAND
JAMES WILLIAM MCKEE
NO. 9012
REGISTERED
PROFESSIONAL LAND SURVEYOR

07-285-A

Shawan Place • Suite 1 • 5 Shawan Road • Cockeysville, MD 21030
Tel: 410-527-1555 • Fax: 410-527-1563 • E-Mail: @mckeeinc.com

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 07-285-A
9414 Belair Road
N/west side of Belair Road and n/east side of Pinedale Drive
11th Election District - 5th Councilmanic District
Legal Owner(s): 9414 Belair Road, LLC, S. Patrick Kennedy, Member

Variance: To permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed and other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or to permit along a principal arterial, a freestanding non-illuminated, double-faced enterprise sign, adjoining, and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

Hearing: Friday, February 16, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

2/003 Feb. 1 123261

CERTIFICATE OF PUBLICATION

2/1/, 2007

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/1/, 2007.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

McKEE & ASSOCIATES, INC.

Engineering • Surveying • Environmental Planning
Real Estate Development

DATE: Jan. 31, 2007

TO: Baltimore County, PDM

RE : Case No. : 07-285-A
9414 Belair Road

MAI :Job No. : 06-259

ATTENTION: Zoning Office / Mrs. Kristen Matthews

(X) We are submitting ( ) We are returning ( ) We are forwarding

( ) Herewith ( ) Under separate cover

No.	Description
1	Certificate Of Posting
2	Photos

(X) For processing ( ) For your use ( ) For your review

( ) Please call when ready ( ) Please return to this office ( ) In accordance with your request

Remarks:

For further information, please contact the writer at this office.

Very truly yours,

McKee & Associates, Inc.

William D. Gulick, Jr.

FEB 1 2007

cc:

Shawan Place • Suite 1 • 5 Shawan Road • Cockeysville, MD 21030
Tel: 410-527-1555 • Fax: 410-527-1563 • E-Mail: @mckeeinc.com

CERTIFICATE OF POSTING

Baltimore County Dept. of Permits &
Development Management
111 W. Chesapeake Avenue, Rm. 111
Towson, MD 21204

Date: Jan. 31, 2007

Attention: Zoning Office / Kristen Matthews

MAI Job No : 06-259

RE: Case Number: 07-285-A
Petitioner/Developer: 9414 Belair Road, LLC-S. Patrick Kennedy, Member

Date of Hearing/Closing: Feb. 16, 2007

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at # 9414 Belair Road

The sign(s) were posted on Jan. 30 , 2007

(Month, Day, Year)

(Signature of Sign Poster)

William D. Gulick, Jr.
(Printed Name of Sign Poster)

McKee and Associates, Inc.
5 Shawan Road, Suite 1
(Street Address of Sign Poster)

Cockeysville, MD 21030
(City, State, Zip Code of Sign Poster)

(410) 527-1555
(Telephone Number of Sign Poster)

SEE
ATTACH PHOTOGRAPH OF SIGN POSTED ON PROPERTY

Revised 3/1/01 - SCJ

ZONING NOTICE

CASE # 07-285-A

A PUBLIC HEARING WILL BE HELD BY THE ZONING COMMISSIONER IN TOWSON, MD

PLACE: COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVE. ROOM 106
TOWSON, MD 21204

DATE AND TIME: FRIDAY FEB. 16, 2007 @ 9:00 AM

REQUEST: VARIANCE

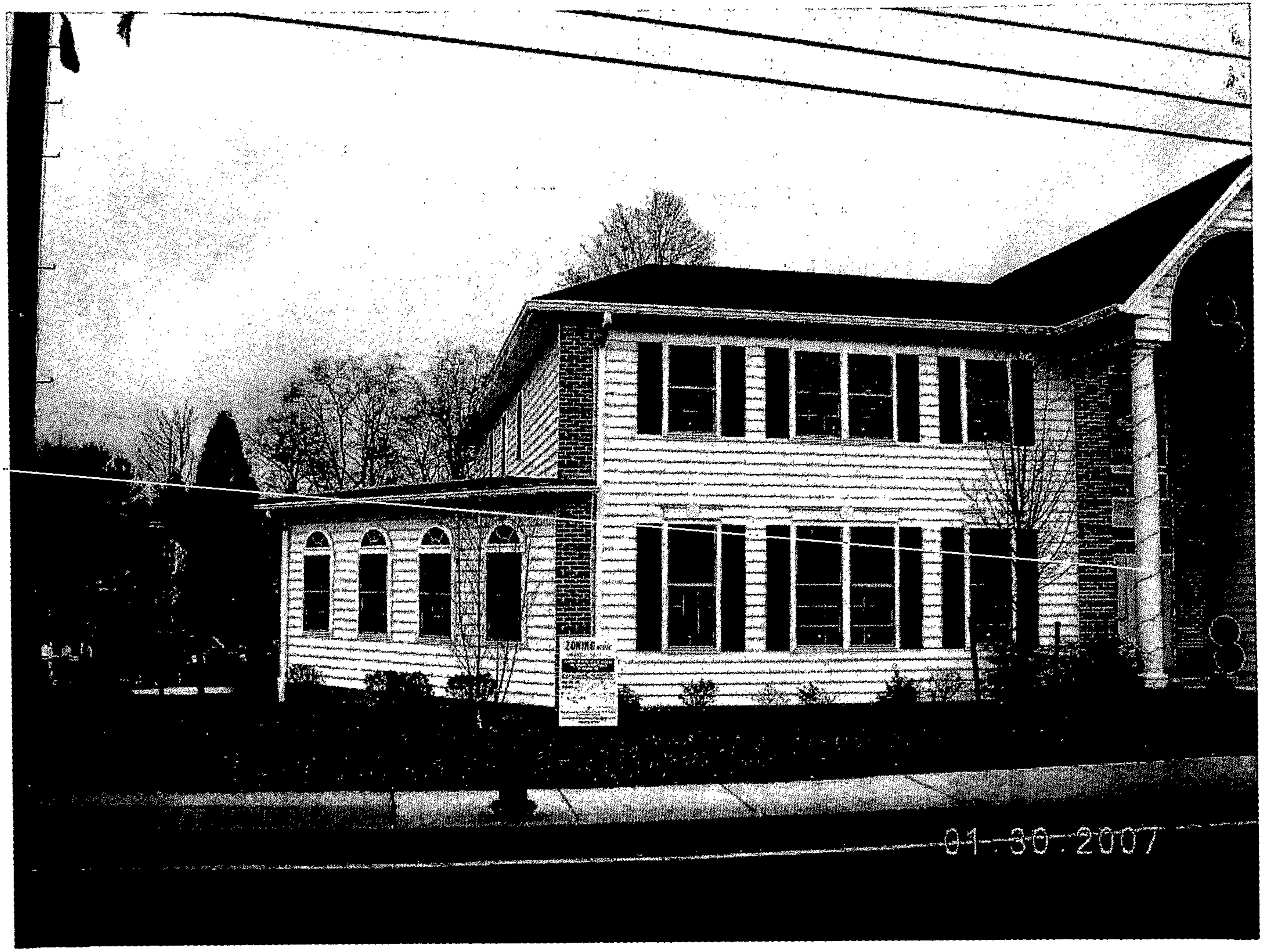
Variance to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of personnel, up to 2.25 inches in size in lieu of the 2.0 inches allowed & other lettering up to 4 inches and 9 inches in size in lieu of the 3 inches allowed, or in lieu of being a principal ground or freestanding, non-illuminated, double-faced entrance sign, whichever being applicable, under zoning regulations for zoned property, all as shown more particularly on the Plat to Accompany the Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

03/02/2007


ZONING
01-30-2007

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

January 11, 2007

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-285-A
9414 Belair Road
N/west side of Belair Road and n/east side of Pinedale Drive
11th Election District – 5th Councilmanic District
Legal Owners: 9414 Belair Road, LLC, S. Patrick Kennedy, Member

Variance to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed & other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or to permit along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining, and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

Hearing: Friday, February 16, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Howard Alderman, Jr., 502 Washington Avenue, 8th floor, Towson 21204
S. Patrick Kennedy, 2613 Gunpowder Farms Road, Fallston 21047-2205
Geoffrey Schultz, 5 Shawan Road, Ste. 1, Hunt Valley 21030

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, FEBRUARY 1,2007.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

RE:	PETITION FOR VARIANCE 9414 Belair Road; NW/S Belair Road & NE/S Pinedale Drive 11th Election & 5th Councilmanic Districts Legal Owner(s): 9414 Belair Road, LLC Petitioner(s)	* * * * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-285-A

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of January, 2007, a copy of the foregoing Entry of Appearance was mailed to, Geoffrey C. Schultz, McKee & Associates, Inc, 5 Shawan Road, Suite 1, Cockeysville, MD 21030 and Howard L. Alderman, Jr. Esquire, Levin & Gann, P.A., 502 Washington Avenue, 8th Floor, Towson, MD 21204 , Attorney for Petitioner(s).

RECEIVED
JAN 08 2007
Per.....

Peter Max Zimmerman

PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

RE: PETITION FOR VARIANCE 9414 Belair Road; NW/S Belair Road & NE/S Pinedale Drive 11th Election & 5th Councilmanic Districts Legal Owner(s): 9414 Belair Road, LLC Petitioner(s)	* * * *	BEFORE THE ZONING COMMISSIONER FOR BALTIMORE COUNTY 07-285-A

* * * * * * * * * * * * *

ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence sent/ documentation filed in the case.

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

Carole S. Demilio
CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47
400 Washington Avenue
Towson, MD 21204
(410) 887-2188

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RECEIVED
JAN 08 2007
Per.....

Peter Max Zimmerman
PETER MAX ZIMMERMAN
People's Counsel for Baltimore County

IN RE: PETITION FOR SPECIAL EXCEPTION N/W corner of Belair Road and Pinedale Drive 11th Election District 5th Councilmanic District (9414 Belair Road) Shannon Patrick Kennedy and David A. Smoley *Petitioner*	* * * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-551-XA

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance for property located at 9414 Belair Road. The special exception and variance requests were filed by the legal owners of the subject property, Shannon P. Kennedy and David A. Smoley, by and through their attorney, Howard L. Alderman, Jr. The Petitioners are requesting special exception relief for permission to construct a Class B office building on the subject site. In addition, the Petitioners are requesting variance relief from Section 204.4.C.9.c.(1) of the Baltimore County Zoning Regulations, to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.853 acres of land, more or less, zoned R-O. The subject property is located on the northwest corner of the intersection of Belair Road and Pinedale Drive in Perry Hall. The property is currently improved with an existing single-family dwelling. The property owner wishes to tear down the old house and construct a 9,555 sq. ft. office building in its place. The details of the proposed development are more particularly shown on Petitioners' Exhibit No. 1,

ALL-STATE LEGAL
PETITIONER'S EXHIBIT
3

5. ENFORCEMENT. If any party to this Agreement, or any party's successor is required to institute legal action to enforce the terms of this Agreement, and is successful thereafter (whether by judgment or by settlement) in obtaining enforcement of the Agreement, that party or successor shall be entitled to recover reasonable attorneys' fees and other reasonable costs of the action from the person or entity against whom enforcement is obtained. However, as a prerequisite to the recovery of fees and costs under this paragraph, the person or entity seeking enforcement shall serve the alleged violator of the Agreement with written notice of the violation, and only if the alleged violator has failed to remedy or to make substantial progress toward remedying the violation within sixty (60) days after receipt of this notice may legal action be instituted.

6. CAPTIONS. All captions in this Agreement are for convenience only and do not in any way define, limit, amplify or describe the scope of the provisions hereof and shall not be utilized to interpret the provisions of this Agreement.

7. NO THIRD PARTY BENEFICIARIES. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give to any other person or entity any right, remedy or claim under this Agreement or by reason hereof.

8. GOVERNING LAWS. This Agreement shall be construed and governed in accordance with the laws of the State of Maryland applicable to contracts made and to be performed in the State of Maryland, without giving effect to the principles of conflicts of laws effective therein.

9. WAIVER. PHIA agrees to accept fully and without contest of any kind or nature the validity and legality of this rezoning of the D.R. 5.5 parcel to R.O. obtained by The Owners, and hereby waive the right to institute any future action, suit or legal proceeding involving this rezoning, excepting only any action, suit or other proceeding instituted for breach of this Agreement.

10. AMENDMENT. This Agreement may be amended or supplemented only by an instrument in writing duly executed by or on behalf of the Owners, or their successors and assigns, and PHIA, or its successors and assigns, and recorded among the Land Records of Baltimore County, Maryland.

11. BENEFIT TO PARTIES, SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of the parties hereto, their successors and assigns.

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 7th day of OCTOBER, in the year Two Thousand, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared David Marks, President of the Perry Hall Improvement Association, Inc., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing restrictive covenant and improvement agreement to be the act of the corporation and that he is empowered and authorized to sign same on its behalf, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Charles Emanuel
Notary Public 10/7/00

My commission expires: November 1, 2001

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, in the year TWO THOUSAND, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared SHANNON PATRICK KENNEDY AND DAVID A. SMOLEY known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and they acknowledged the foregoing restrictive covenant and improvement agreement to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Karen Smoley
Notary Public

My commission expires: December 23, 2003

EXHIBIT A

BEGINNING FOR THE FIRST at a point in the Belair Road and in the first or south 48 degrees 25 minutes west 965 foot 8 inch line of that tract of land which by Deed dated August 15, 1938 and recorded among the Land Records of Baltimore County in Liber CWB,Jr. No. 1038, folio 274, etc., was conveyed by Frederick J. Schlosstein and wife to Charles H. Koffenberger, said point of beginning being distant 726.93 feet north 48 degrees 25 minutes east from a crossmark heretofore cut in the bed of said Belair Road, at the end of the said first line (as shown on a plat dated May 18, 1948 and prepared by H. S. Morfoot, County Surveyor of Baltimore County from a survey for Charles H. Koffenberger) thence leaving the said first line, and the bed of said Belair Road, north 41 degrees 28 minutes west 23.75 feet to an iron pipe now planted and to the northwesternmost right-of-way line of said Belair Road as now constructed; thence running with and binding on the northeasternmost side of a road or right-of-way (50 feet wide) to be kept open for use in common with others entitled thereto, north 41 degrees 28 minutes west 150.00 feet to an iron pipe now planted; thence leaving the said northeasternmost side of said road or right-of-way and running for lines of division the two following courses and distance, viz: north 48 degrees 32 minutes east 100.00 feet to an iron pipe now planted, and south 41 degrees 28 minutes east 150.00 feet to an iron pipe now planted on the afore-described northwesternmost right-of-way line of Belair Road as now constructed, thence south 41 degrees 28 minutes east 23.55 feet to intersect the aforesaid first line; thence running with and binding on part of said first line south 48 degrees 25 minutes west 100.00 feet to the place of beginning. Containing 0.344 acres of land, more or less; the improvements thereon being known as 9414 Belair Road.

BEGINNING FOR THE SECOND AND THIRD PARCELS, AND BEING KNOWN AND DESIGNATED as Lot 1 in Block A and the triangular parcel of land bounding on the West side of Lot 1 in Block A, having dimensions of which are 122.69 feet by 141.24 feet by 50.0 feet, all as shown on the Plat entitled, "Pinedale", which Plat is recorded among the Land Records of Baltimore County in Plat Book GLB No. 18, folio 82.

SAVING AND EXCEPTING THEREFROM so much thereof as by Deed dated May 30, 1996 and recorded among the Land Records of Baltimore County in Liber SM No. 11614, folio 434, was granted and conveyed by Antoinete Brady Beall to the State of Maryland to the use of the State Highway Administration of the Department of Transportation.

RECORD AND RETURN TO:

Shannon Patrick Kennedy/David A. Smoley
8846 Belair Road
Baltimore, MD 21236
File #12513

PLEASE PRINT CLEARLY

CASE NAME _____
CASE NUMBER _____
DATE _____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
GEOFFREY C. SCHULTZ	5 SHAWAN ROAD	HUNT VALLEY, MD. 21030	
Patrick Kennedy	2613 Gunpowder Farms Road	Fallston, MD 21047	
CATHY WERNER	2613 GUNPOWDER FARMS RD	FALLSTON, MD 21047	
Auggie Olga Chesser	9110 Deviation Rd	Baltimore MD 21236	
HOWARD L ALDERMAN Jr	502 Washington Ave Suite 550	Towson MD 21204	
DENNIS ECKARD	39 BANGER AVE	Perry Hall Md 21128	
Missy Wolinski	814 Creek Rd	Balt, MD 21236	

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

February 7, 2007

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Dear Mr. Alderman:

RE: Case Number: 07-285-A, 9414 Belair Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 20, 2006.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Geoffrey C. Schultz, PLS McKee & Associates, Inc. 5 Shawan Road, Suite 1 Hunt Valley 21030-1373
9414 Belair Road LLC S. Patrick Kennedy, Member 2613 Gunpowder Road Fallston 21047-2205

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: January 25, 2007

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 9414 Belair Road

INFORMATION:

Item Number: 7-285

Petitioner: S. Patrick Kennedy

Zoning: RO

Requested Action: **Variance**

SUMMARY OF RECOMMENDATIONS:

The subject property is currently zoned RO (Residential Office), and was granted a Special Exception on July 29th, 2002 to allow a class B office to operate on the site (case 02-551-XA). Section 450.7 of the Baltimore County Zoning Regulations (BCZR) states that the lettering on a directory sign indicating the names and locations of the occupants may not be larger than two (2) inches high. Given that the intensity of the land use has been increased (via Special Exception) beyond that which would be permitted by right under the zone class, this Office is of the opinion that granting a variance to permit a non-illuminated, double-faced directory sign to have lettering up to two and one-quarter inches (2.25") in height, can be justified provided the petitioner remove the 'balloon' proposal from the sign detail. Balloons and banners shall not be permanently permitted on any proposed or existing signage.

For further information concerning the matters stated here in, please contact Kevin Gambrill at 410-887-3480.

Reviewed by: Cynthia K. Murray

Division Chief: Lynn Lochner
AFK/LL: CM

W:\DEVREV\ZAC\7-285.doc

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

SHA
State Highway Administration
Driven to Excel
Maryland Department of Transportation

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Date: JAN. 3, 2007

Ms. Kristen Matthews
Baltimore County Office Of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 7-285-A
9414 BELAIR ROAD
9414 BELAIR RD, LLC
VARIANCE - PERMIT A
NON-ILLUMINATED SIGN

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-285A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development
Management

DATE: January 3, 2007

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For January 8, 2006
Item Nos. 07-281, 284, 285, 286, 287, 288,
289, 291, 292, and 293

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-01032007.doc

Case No.: 07-285-A 9414 BELAIR RD

Exhibit Sheet

	Petitioner/Developer	Protestant
No. 1	Plat to accomp	
No. 2	Photo	
No. 3	Order case no	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

Timothy Kotroco
TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

PLAT TO ACCOMPANY
PETITION FOR ZONING VARIANCE

9414 BELAIR ROAD

11th ELECTION DISTRICT
SCALE: 1" = 20'

BALTIMORE COUNTY, MARYLAND
DATE: 12-19-06

5TH COUNCILMANIC DISTRICT

PDM NO. XI-920

OWNER / APPLICANT
9414 BELAIR ROAD LLC
S. PATRICK KENNEDY, MEMBER
2613 GUNPOWDER FARMS ROAD
FALLSTON MD 21047-2205
TA#1102066600
DEED REFERENCE:
TAX MAP 72 GRID 2 PARCEL 406

DESIGN AND DRAWING
BASED ON MARYLAND
COORDINATE SYSTEM
HORIZONTAL - NAD 83/91
VERTICAL - NAVD 88

Pet #

07-285-A

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
2

DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT
ZONING REVIEW

ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:

Item Number or Case Number: 07-285-A

Petitioner: PATRICK KENNEDY

Address or Location: 9414 BELAIR ROAD

PLEASE FORWARD ADVERTISING BILL TO:

Name: PATRICK KENNEDY

Address: 2613 GUNPOWDER FARMS ROAD
FALLSTON MD 21047

Telephone Number: 410-529-7900

Revised 2/20/98 - SCJ

07-285-A

residentially zoned property in lieu of the minimum required 20 ft. Testimony and evidence offered by the Petitioner demonstrated that the areas set aside on the site plan submitted into evidence for landscaping are sufficient to provide an adequate screen to the surrounding properties. The 5 ft. wide buffer on the north side of the property abuts the Masonic Temple. The Masonic Temple property is zoned residential, however its use is institutional in nature. The property to the west, owned by John and Betty Pitcock, has a sufficient amount of screening. Accordingly, the variance shall be granted.

After considering the testimony and evidence offered in support, as well as the testimony in opposition to the Petitioners' request, I find that the special exception should be granted to allow the building to be constructed on this property. Furthermore, the variance relief should also be granted to allow a reduction in the landscape buffer areas as shown on the site plan submitted into evidence.

THEREFORE IT IS ORDERED, this 29th day July, 2002, by this Deputy Zoning Commissioner, that the Special Exception to construct a Class B office building in an R-O zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the variance relief to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the relief granted herein is subject to the following conditions and restrictions:

1. The Petitioners shall be required to submit a landscape plan to Avery Harden, Landscape Architect for Baltimore County, for his full review and approval.

ALL-STATE LEGAL
PETITIONER'S EXHIBIT
4

RESTRICTIVE COVENANT AND IMPROVEMENTS AGREEMENT

THIS RESTRICTIVE COVENANTS AND IMPROVEMENTS AGREEMENT, is made this 7th day of October, 2000 by and between PERRY HALL IMPROVEMENT ASSOCIATION, INC., a Maryland not for profit Corporation ("PHIA") and SHANNON PATRICK KENNEDY and DAVID A. SMOLEY, owners of three parcels of property improved by a building known as 9414 Belair Road in the 11th election district of Baltimore County, (hereinafter known as "the Owners").

RECITALS

A. The Owners own three parcels of land located in the fifth (5th) councilmanic district (11th Election District) of Baltimore County described in a deed recorded among the land records of Baltimore County in Liber 14147, folio 030, containing approximately .69± acres, as more particularly described in Exhibit A (attached hereto and incorporated herein by reference).

B. The approximate .69 acre tract (hereinafter referred to as the "subject parcel") is improved by a building known as 9414 Belair Road, and currently is zoned D.R. 5.5 pursuant to the adopted 1996 Zoning Maps of Baltimore County.

C. The Owners desire to obtain R.O. zoning of the subject parcel as defined in the Baltimore County Zoning Regulations pursuant to Baltimore County's 2000 Comprehensive Zoning Map Process.

D. PHIA as a community association is concerned about the use and the development of the .69± acre subject parcel.

NOW, THEREFORE, in consideration of the mutual premises and the conditions and covenants hereinafter stated and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. RESTRICTIVE COVENANTS. In the event rezoning of the subject parcel is granted in the 2000 Comprehensive Zoning Map Process to R.O. and a special exception is granted, the Owners agree to use the subject parcel either for the use of an office building or as a single family dwelling.

2. BUILDING AGREEMENT. In the event rezoning of the subject tract is granted in the 2000 Comprehensive Zoning Map Process to R.O., in addition to any other requirements existing at the time of development under applicable state, county, and federal law, the Owners agree to submit for review and comment to PHIA, development and landscape plans for said subject parcel including building elevations containing a description of exterior materials to be used in the construction of said building and landscaping. The parties hereto agree that a special exception may be necessary

ALL-STATE LEGAL
PETITIONER'S EXHIBIT
5

McKEE & ASSOCIATES, INC.
Engineering • Surveying • Environmental Planning
Real Estate Development

ZONING DESCRIPTION OF 9414 BELAIR ROAD
11TH ELECTION DISTRICT
5TH COUNCILMAN DISTRICT
BALTIMORE, MD

BEGINNING for the same at the intersection of the Northwest side of Belair Road (Right-of-Way width varies) and the Northeast side of Pinedale Drive (50 foot wide Right-of-way), thence running along the Northwest side of Belair Road N42-27-07E 187.52 feet, thence running N79-09-04W 210.32 feet and S22-27-27W 122.79 feet to the Northeast side of Pinedale Drive, thence running along the Northeast of Pinedale Drive the three following courses and distances. 1) by a curve to the right, having a radius of 205.00 feet and an arc length of 60.90 feet, 2) S47-34-50E 44.57 feet, and 3) S89-16-46E 43.64 feet to the place of beginning.

CONTAINING 26,586 SF or 0.610 acres of land as recorded in Deed Liber 14147 Folio 30.

STATE OF MARYLAND
JAMES WILLIAM MCKEE
NO. 9012
REGISTERED
PROFESSIONAL LAND SURVEYOR

07-255-A

Shawan Place • Suite 1 • 5 Shawan Road • Cockeysville, MD 21030
Tel: 410-527-1555 • Fax: 410-527-1563 • E-Mail: @mckeeinc.com

BALTIMORE COUNTY

MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

January 11, 2007

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-285-A
9414 Belair Road
N/west side of Belair Road and n/east side of Pinedale Drive
11th Election District – 5th Councilmanic District
Legal Owners: 9414 Belair Road, LLC, S. Patrick Kennedy, Member

Variance to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed & other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or to permit along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining, and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

Hearing: Friday, February 16, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

Timothy Kotroco

Timothy Kotroco
Director

TK:klm

C: Howard Alderman, Jr., 502 Washington Avenue, 8th floor, Towson 21204
S. Patrick Kennedy, 2613 Gunpowder Farms Road, Fallston 21047-2205
Geoffrey Schultz, 5 Shawan Road, Ste. 1, Hunt Valley 21030

NOTES: (1) **THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY THURSDAY, FEBRUARY 1,2007.**
(2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: # 07-285-A
9414 Belair Road
N/west side of Belair Road and n/east side of Pinedale Drive
11th Election District - 5th Councilmanic District
Legal Owner(s): 9414 Belair Road, LLC, S. Patrick Kennedy, Member

Variance: To permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed and other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or to permit along a principal arterial, a freestanding non-illuminated, double-faced enterprise sign, adjoining, and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

Hearing: Friday, February 16, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204.

WILLIAM J. WISEMAN, III
Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.
(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

2/003 Feb. 1 123261

CERTIFICATE OF PUBLICATION

2/1/, 2007

THIS IS TO CERTIFY, that the annexed advertisement was published in the following weekly newspaper published in Baltimore County, Md., once in each of 1 successive weeks, the first publication appearing on 2/1/, 2007.

- [X] The Jeffersonian
- [ ] Arbutus Times
- [ ] Catonsville Times
- [ ] Towson Times
- [ ] Owings Mills Times
- [ ] NE Booster/Reporter
- [ ] North County News

S. Wilkinson

LEGAL ADVERTISING

McKEE & ASSOCIATES, INC.
Engineering • Surveying • Environmental Planning
Real Estate Development

DATE: Jan. 31, 2007

TO: Baltimore County, PDM

RE : Case No. : 07-285-A
9414 Belair Road

MAI :Job No. : 06-259

ATTENTION: Zoning Office / Mrs. Kristen Matthews

(X) We are submitting ( ) We are returning ( ) We are forwarding

( ) Herewith ( ) Under separate cover

No.	Description
1	Certificate Of Posting
2	Photos

(X) For processing ( ) For your use ( ) For your review

( ) Please call when ready ( ) Please return to this office ( ) In accordance with your request

Remarks:

For further information, please contact the writer at this office.

Very truly yours,

McKee & Associates, Inc.

William D. Gulick, Jr.

FEB 1 2007

cc:

Shawan Place • Suite 1 • 5 Shawan Road • Cockeysville, MD 21030
Tel: 410-527-1555 • Fax: 410-527-1563 • E-Mail: @mckeeinc.com

CERTIFICATE OF POSTING

Baltimore County Dept. of Permits &
Development Management
111 W. Chesapeake Avenue, Rm. 111
Towson, MD 21204

Date: Jan. 31, 2007

Attention: Zoning Office / Kristen Matthews

MAI Job No : 06-259

RE: Case Number: 07-285-A
Petitioner/Developer: 9414 Belair Road, LLC-S. Patrick Kennedy, Member

Date of Hearing/Closing: Feb. 16, 2007

This is to certify under the penalties of perjury that the necessary sign(s) required by law were posted conspicuously on the property located at # 9414 Belair Road

The sign(s) were posted on Jan. 30 , 2007

(Month, Day, Year)

(Signature of Sign Poster)

William D. Gulick, Jr.
(Printed Name of Sign Poster)

McKee and Associates, Inc.
5 Shawan Road, Suite 1
(Street Address of Sign Poster)

Cockeysville, MD 21030
(City, State, Zip Code of Sign Poster)

(410) 527-1555
(Telephone Number of Sign Poster)

SEE
ATTACH PHOTOGRAPH OF SIGN POSTED ON PROPERTY

Revised 3/1/01 - SCJ

ZONING NOTICE

CASE # 07-285-A

A PUBLIC HEARING WILL BE HELD BY
THE ZONING COMMISSIONER
IN TOWSON, MD

PLACE: COUNTY OFFICE BUILDING
111 W. CHESAPEAKE AVE. ROOM 106
TOWSON, MD 21204

DATE AND TIME: FRIDAY FEB. 16, 2007 @ 9:00 AM

REQUEST: VARIANCE

We are to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed & other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or to permit a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and facing residentially zoned property, all as shown more particularly on the Plan to accompany the Petition and to amend the site plan and sign detail in Case No. 02-561-XA, considered with the relief requested.

POSTPONEMENTS DUE TO WEATHER OR OTHER CONDITIONS ARE SOMETIMES NECESSARY.
TO CONFIRM HEARING CALL 887-3391

DO NOT REMOVE THIS SIGN AND POST UNTIL DAY OF HEARING, UNDER PENALTY OF LAW

HANDICAPPED ACCESSIBLE

07-285-A

TO: PATUXENT PUBLISHING COMPANY
Thursday, February 1, 2007 Issue - Jeffersonian

Please forward billing to:
Patrick Kennedy
2613 Gunpowder Farms Road
Fallston 21047-2205

410-529-7900

NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 07-285-A
9414 Belair Road
N/west side of Belair Road and n/east side of Pinedale Drive
11th Election District – 5th Councilmanic District
Legal Owners: 9414 Belair Road, LLC, S. Patrick Kennedy, Member

Variance to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed & other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or to permit along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining, and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

Hearing: Friday, February 16, 2007 at 9:00 a.m. in Room 106, County Office Building, 111 West Chesapeake Avenue, Towson 21204

WILLIAM J. WISEMAN III
ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

Petition for Variance

to the Zoning Commissioner of Baltimore County

for the property located at 9414 BELAIR ROAD

which is presently zoned RO [MAP-072A1]

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section(s)

SEE ATTACHED

of the Zoning Regulations of Baltimore County, to the zoning law of Baltimore County, for the following reasons: (indicate hardship or practical difficulty)

SEE ATTACHED

Property is to be posted and advertised as prescribed by the zoning regulations.
I, or we, agree to pay expenses of above Variance, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser/Lessee:

NONE
Name - Type or Print

Signature

Address — Telephone No.

City — State — Zip Code

Legal Owner(s):

9414 BELAIR ROAD LLC
Name - Type or Print

BY:
Signature

S. PATRICK KENNEDY, MEMBER
Name - Type or Print

Signature

2613 GUNPOWDER ROAD — 410-529-7900
Address — Telephone No.

FALLSTON — MD — 21047-2205
City — State — Zip Code

Attorney For Petitioner:

Howard L. Alderman, Jr., Esquire
Name - Type or Print

Signature

Levin & Gann, PA Nottingham Centre, 8th Floor
Company

502 Washington Avenue — 410-321-0600
Address — Telephone No.

Towson, MD 21204
City — State — Zip Code

Representative to be Contacted:

GEOFFREY C. SCHULTZ, PLS McKEE & ASSOC., INC.
Name

5 SHAWAN ROAD, SUITE 1 — 410-527-1555
Address — Telephone No.

HUNT VALLEY — MD — 21030-1373
City — State — Zip Code

OFFICE USE ONLY

ESTIMATED LENGTH OF HEARING —

UNAVAILABLE FOR HEARING —

Reviewed By SRA Date 12-20-06

Case No. 07-285-A

REV 9/15/98

31-07

07-285-A

Attachment 1
PETITION FOR VARIANCE

CASE NO: 07- -A

Address: 9414 Belair Road
Legal Owner: 9414 Belair Road, LLC

REQUESTED RELIEF:

In the alternative: i) a variance from BCZR § 450.4 and § 450.7A to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25" in size in lieu of the 2.0" allowed, and other lettering up to 4" and 6" in size in lieu of the 3" allowed; **OR** ii) a variance from BCZR § 450.4.5(m) to permit, along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested; and approve such additional relief as the nature of this case as presented at the time of the hearing on this Petition may require, within the spirit and intent of the BCZR.

JUSTIFICATION:

A. Sign needed to identify property;
B. Speed and volume of traffic on principal arterial requiring adequate identification of occupants; and
C. For such further reasons that will be presented at the hearing on this Petition.

FOR ADDITIONAL INFORMATION ON THIS PETITION, PLEASE CONTACT:

Howard L. Alderman, Jr., Esquire
Levin & Gann, P.A.
8th Floor, Nottingham Centre
502 Washington Avenue
Towson, Maryland 21204

(410) 321-0600
Fax: (410) 296-2801
halderman@LevinGann.com

07-285-D

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

07-285-(A)

No. 23070

DATE 12 20 06 ACCOUNT R.001.000.615C

AMOUNT $ 325.00

RECEIVED FROM: 9414 BELAIR RD. LLC

FOR: Com. Loan
9414 BELAIR RD

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT

BUSINESS DATE	ACTUAL DATE	TIME	USR
12/20/2006	12/20/2006	15:12:59	4

RECEIPT # 537776 12/20/2006 CLH
Dept 4 Rev Zoning Verification
Ck No. 102701
Rcpt Tot $325.00
$325.00 CK $0.00 CA
Baltimore County, Maryland

CASHIER'S VALIDATION

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

April 19, 2007

S. Patrick Kennedy, Member
9414 Belair Road LLC
2613 Gunpowder Road
Fallston, MD 21047-2205

Dear Mr. Kennedy:

RE: Case: 07-285-A, 9414 Belair Road

Please be advised that an appeal of the above-referenced case was filed in this office on March 30, 2007 by Howard L. Alderman, Jr. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco
Director

TK:amf

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Howard L. Alderman, Jr., Esquire Levin & Gann, PA 502 Washington Avenue, 8th Floor Towson 21204
Geoffrey C. Schultz, PLS McKee & Associates, Inc. 5 Shawan Road, Suite 1 Hunt Valley 21030-1373
Patrick Kennedy 2613 Gunpowder Farms Road Fallston 21047
Cathy Werner 2613 Gunpowder Farms Road Fallston 21047
"Auggie" Olga Chesser 9110 Deviation Road Baltimore 21236
Dennis Eckard 39 Bangert Avenue Perry Hall 21128
Missy Wolinski 814 Creek Road Baltimore 21236

APPEAL

Petition for Variance
9414 Belair Road
Northwest side of Belair Road and northeast side of Pinedale Drive
11th Election District – 5th Councilmanic District
Legal Owner(s): 9414 Belair Road LLC
S. Patrick Kennedy, Member

Case No.: 07-285-A

Petition for Variance (December 20, 2006)

Zoning Description of Property

Notice of Zoning Hearing (January 11, 2007)

Certification of Publication (February 1, 2007)

Certificate of Posting (January 31, 2007) by William D. Gulick, Jr.

Entry of Appearance by People's Counsel (January 8, 2007)

Petitioner(s) Sign-In Sheet – 1 Sheet

Protestant(s) Sign-In Sheet – None

Citizen(s) Sign-In Sheet – None

Zoning Advisory Committee Comments

Petitioners' Exhibit

1. Plat to accompany Petition for Zoning Variance
2. Photograph of site
3. Findings of Fact and Conclusions of Law 02-551-XA
4. Photographs of signage near to the site
5. Restrictive Covenant and Improvements Agreement, 10/7/00
6. Site Development Plan and Plat to accompant Special Exception and Variance Petitions for 9414 Belair road, 6/4/02

Protestants' Exhibits: None

Miscellaneous (Not Marked as Exhibit)

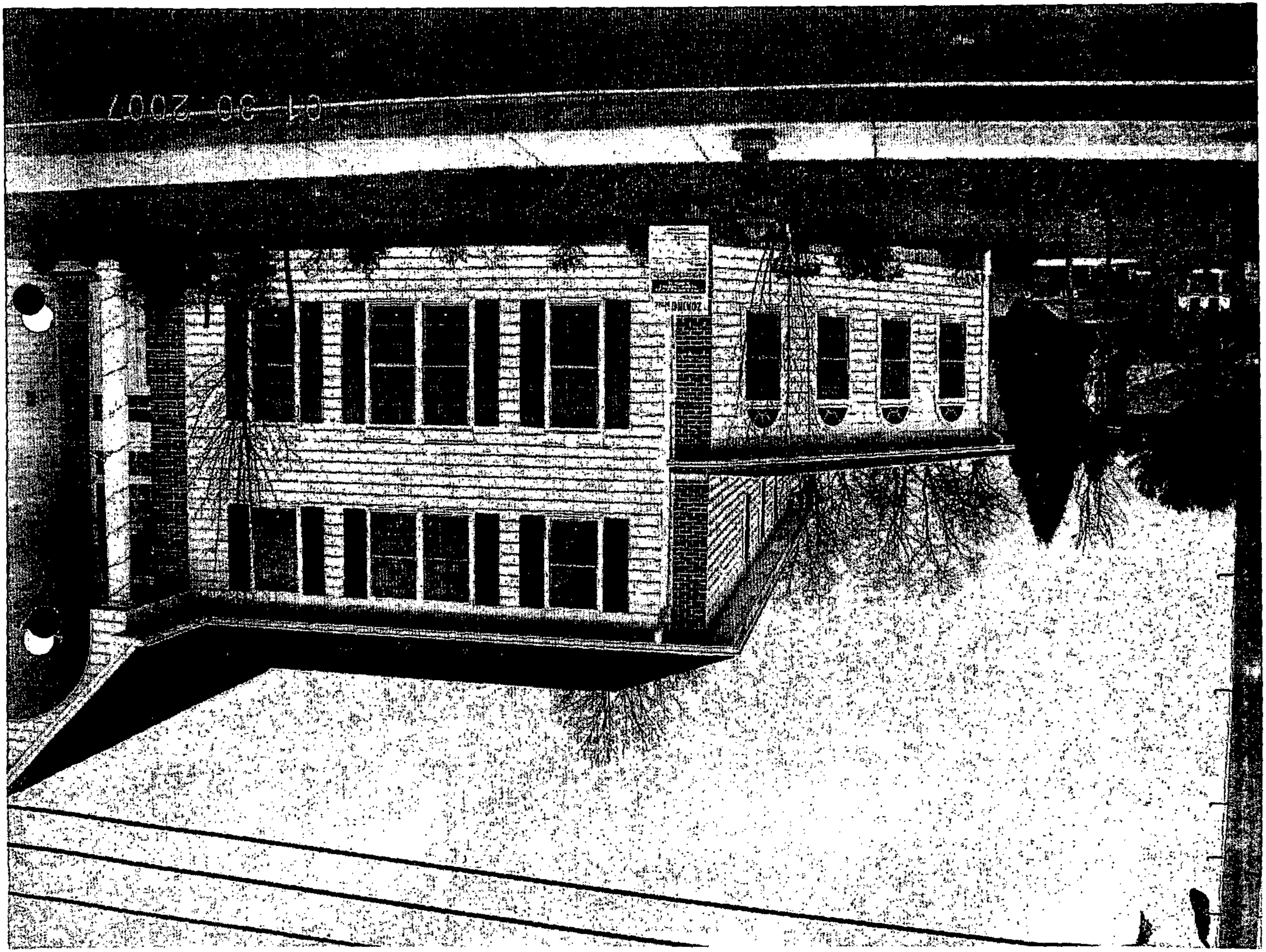
1. 200 scale map
2. 400 scale map
3. Findings of Fact and Conclusions of Law 02-551-XA
4. Faxed copy of pg 1-17 of the BCZR from Mr. Alderman to Mr. Murphy

Deputy Zoning Commissioner's Order (DENIED in accordance w/order – March 1, 2007)

Notice of Appeal received on March 30, 2007 from Howard L. Alderman, Jr.

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Howard L. Alderman, Jr., Esquire Levin & Gann, PA 502 Washington Avenue, 8th Floor Towson 21204
Geoffrey C. Schultz, PLS McKee & Associates, Inc. 5 Shawan Road, Suite 1 Hunt Valley 21030-1373
Patrick Kennedy 2613 Gunpowder Farms Road Fallston 21047
Cathy Werner 2613 Gunpowder Farms Road Fallston 21047
"Auggie" Olga Chesser 9110 Deviation Road Baltimore 21236
Dennis Eckard 39 Bangert Avenue Perry Hall 21128
Missy Wolinski 814 Creek Road Baltimore 21236

date sent April 19, 2007, amf


01-30-2007

SITE DEVELOPMENT PLAN
AND PLAT TO ACCOMPANY
PECIAL EXCEPTION AND VARIANCE PETITIONS

9414 BELAIR ROAD

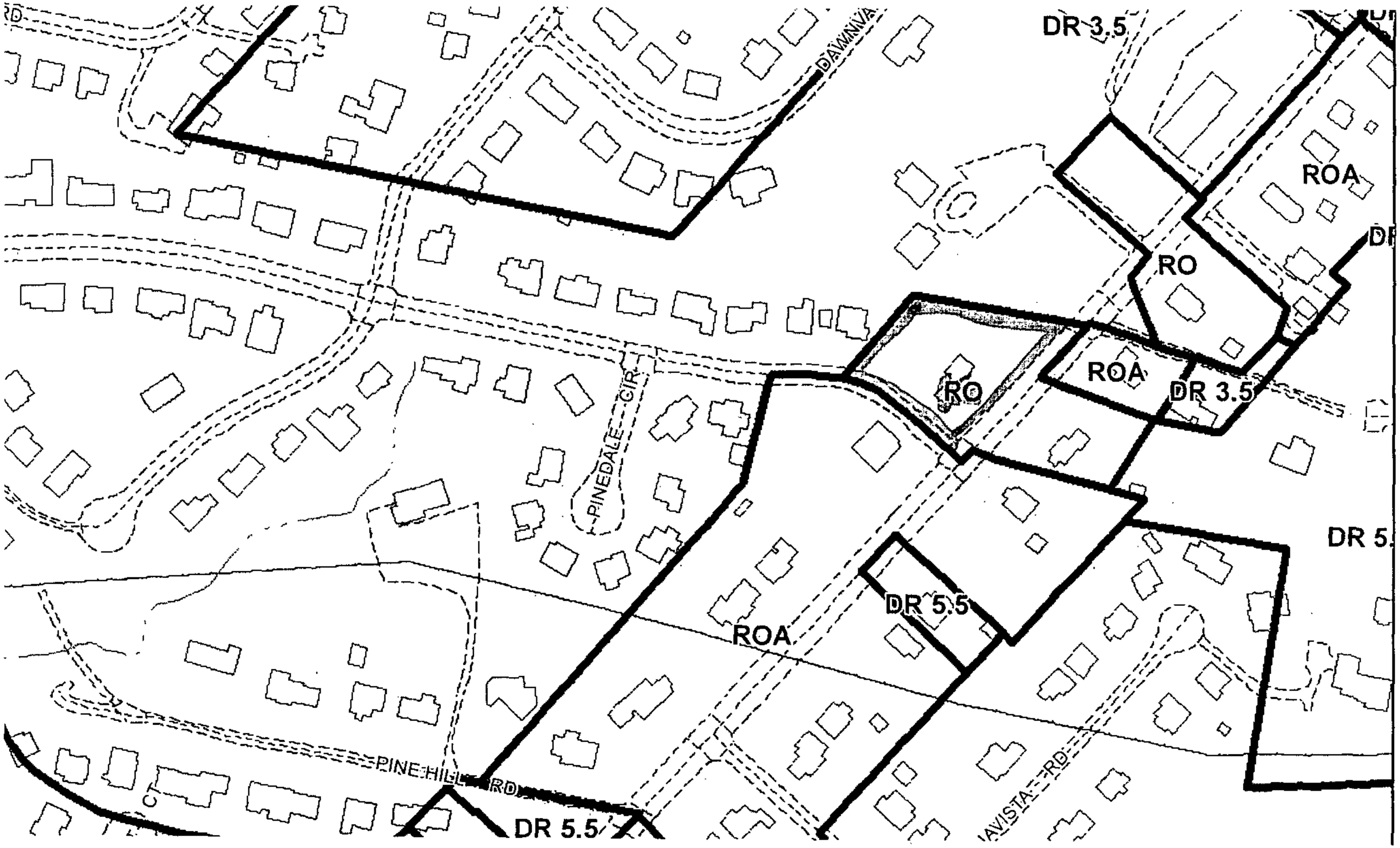
11th ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20' DATE: JUNE 4, 2002
5TH COUNCILMANIC DISTRICT

OWNER

SHANNON PATRICK KENNEDY
DAVID A SMOLEY
2613 GUNPOWDER FARMS ROAD
FALLSTON MD 21047-2205
TA#1102066600
DEED REFERENCE: 14147/30
TAX MAP 72 GRID 2 PARCEL 406

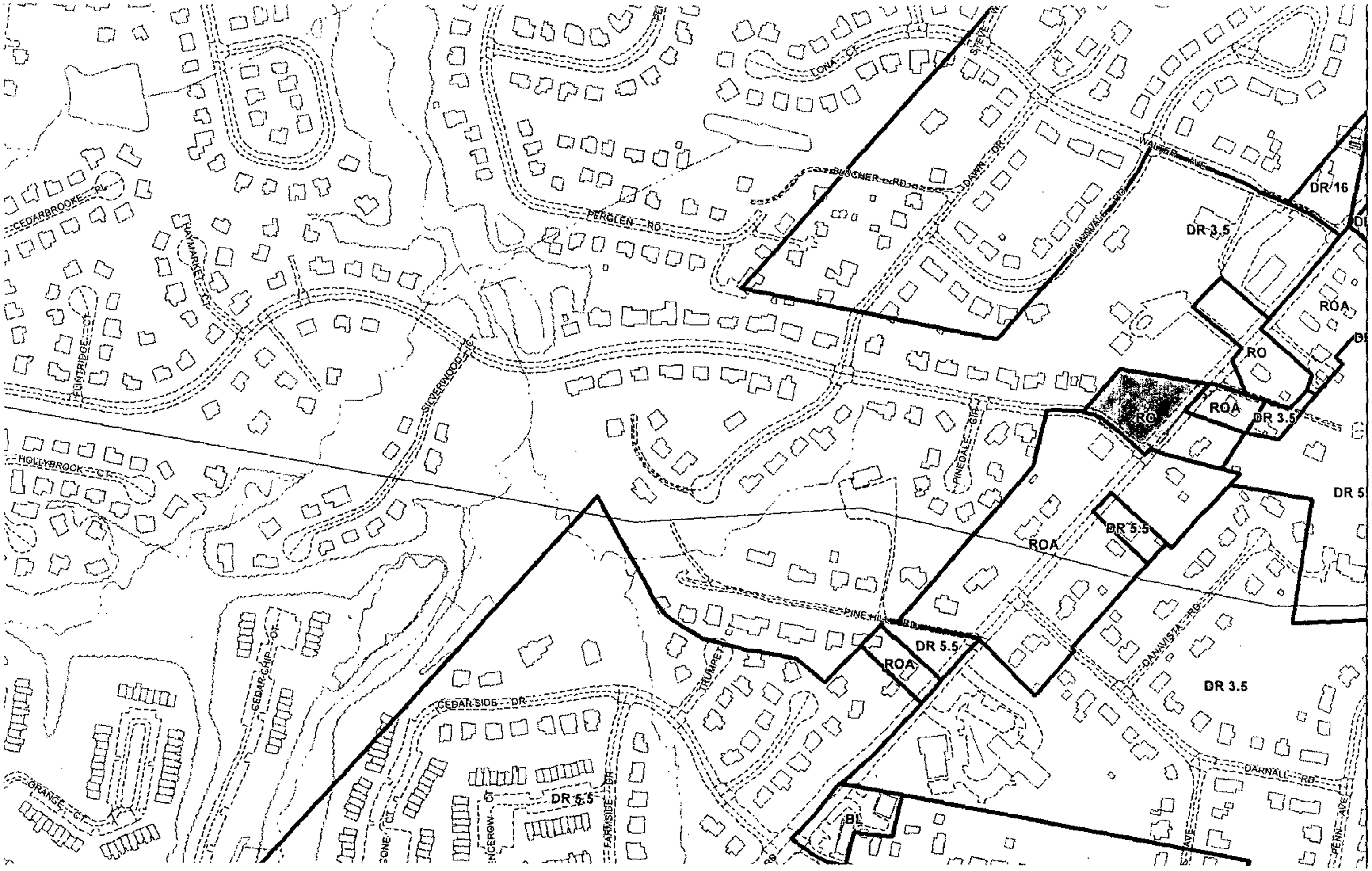
ALL-STATE LEGAL
PETITIONER'S EXHIBIT
6

072-A-1
1" = 200 ft.
Zone: RO.



07-285-A

072-A-1
1" = 400 FT
ZONE RO.



07-285-A

7/23

IN RE: PETITION FOR SPECIAL EXCEPTION N/W corner of Belair Road and Pinedale Drive 11th Election District 5th Councilmanic District (9414 Belair Road) Shannon Patrick Kennedy and David A. Smoley *Petitioner*	*	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-551-XA Prior Zoning

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance for property located at 9414 Belair Road. The special exception and variance requests were filed by the legal owners of the subject property, Shannon P. Kennedy and David A. Smoley, by and through their attorney, Howard L. Alderman, Jr. The Petitioners are requesting special exception relief for permission to construct a Class B office building on the subject site. In addition, the Petitioners are requesting variance relief from Section 204.4.C.9.c.(1) of the Baltimore County Zoning Regulations, to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.853 acres of land, more or less, zoned R-O. The subject property is located on the northwest corner of the intersection of Belair Road and Pinedale Drive in Perry Hall. The property is currently improved with an existing single-family dwelling. The property owner wishes to tear down the old house and construct a 9,555 sq. ft. office building in its place. The details of the proposed development are more particularly shown on Petitioners' Exhibit No. 1,

residentially zoned property in lieu of the minimum required 20 ft. Testimony and evidence offered by the Petitioner demonstrated that the areas set aside on the site plan submitted into evidence for landscaping are sufficient to provide an adequate screen to the surrounding properties. The 5 ft. wide buffer on the north side of the property abuts the Masonic Temple. The Masonic Temple property is zoned residential, however its use is institutional in nature. The property to the west, owned by John and Betty Pitcock, has a sufficient amount of screening. Accordingly, the variance shall be granted.

After considering the testimony and evidence offered in support, as well as the testimony in opposition to the Petitioners' request, I find that the special exception should be granted to allow the building to be constructed on this property. Furthermore, the variance relief should also be granted to allow a reduction in the landscape buffer areas as shown on the site plan submitted into evidence.

THEREFORE IT IS ORDERED, this 29th day July, 2002, by this Deputy Zoning Commissioner, that the Special Exception to construct a Class B office building in an R-O zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the variance relief to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the relief granted herein is subject to the following conditions and restrictions:

1. The Petitioners shall be required to submit a landscape plan to Avery Harden, Landscape Architect for Baltimore County, for his full review and approval.

Pet Ex #2

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THIS RESTRICTIVE COVENANTS AND IMPROVEMENTS AGREEMENT, is made this 7th day of ~~September~~ October, 2000 by and between PERRY HALL IMPROVEMENT ASSOCIATION, INC., a Maryland not for profit Corporation ("PHIA") and SHANNON PATRICK KENNEDY and DAVID A. SMOLEY, owners of three parcels of property improved by a building known as 9414 Belair Road in the 11th election district of Baltimore County, (hereinafter known as "the Owners").

RECITALS

A. The Owners own three parcels of land located in the fifth (5th) councilmanic district (11th Election District) of Baltimore County described in a deed recorded among the land records of Baltimore County in Liber 14147, folio 030, containing approximately .69± acres, as more particularly described in Exhibit A (attached hereto and incorporated herein by reference).

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C. The Owners desire to obtain R.O. zoning of the subject parcel as defined in the Baltimore County Zoning Regulations pursuant to Baltimore County's 2000 Comprehensive Zoning Map Process.

D. PHIA as a community association is concerned about the use and the development of the .69± acre subject parcel.

NOW, THEREFORE, in consideration of the mutual premises and the conditions and covenants hereinafter stated and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. RESTRICTIVE COVENANTS. In the event rezoning of the subject parcel is granted in the 2000 Comprehensive Zoning Map Process to R.O. and a special exception is granted, the Owners agree to use the subject parcel either for the use of an office building or as a single family dwelling.

2. BUILDING AGREEMENT. In the event rezoning of the subject tract is granted in the 2000 Comprehensive Zoning Map Process to R.O., in addition to any other requirements existing at the time of development under applicable state, county, and federal law, the Owners agree to submit for review and comment to PHIA, development and landscape plans for said subject parcel including building elevations containing a description of exterior materials to be used in the construction of said building and landscaping. The parties hereto agree that a special exception may be necessary

ALL-STATE LEGAL® PETITIONER'S EXHIBIT 2

5. ENFORCEMENT. If any party to this Agreement, or any party's successor is required to institute legal action to enforce the terms of this Agreement, and is successful thereafter (whether by judgment or by settlement) in obtaining enforcement of the Agreement, that party or successor shall be entitled to recover reasonable attorneys' fees and other reasonable costs of the action from the person or entity against whom enforcement is obtained. However, as a prerequisite to the recovery of fees and costs under this paragraph, the person or entity seeking enforcement shall serve the alleged violator of the Agreement with written notice of the violation, and only if the alleged violator has failed to remedy or to make substantial progress toward remedying the violation within sixty (60) days after receipt of this notice may legal action be instituted.

6. CAPTIONS. All captions in this Agreement are for convenience only and do not in any way define, limit, amplify or describe the scope of the provisions hereof and shall not be utilized to interpret the provisions of this Agreement.

7. NO THIRD PARTY BENEFICIARIES. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give to any other person or entity any right, remedy or claim under this Agreement or by reason hereof.

8. GOVERNING LAWS. This Agreement shall be construed and governed in accordance with the laws of the State of Maryland applicable to contracts made and to be performed in the State of Maryland, without giving effect to the principles of conflicts of laws effective therein.

9. WAIVER. PHIA agrees to accept fully and without contest of any kind or nature the validity and legality of this rezoning of the D.R. 5.5 parcel to R.O. obtained by The Owners, and hereby waive the right to institute any future action, suit or legal proceeding involving this rezoning, excepting only any action, suit or other proceeding instituted for breach of this Agreement.

10. AMENDMENT. This Agreement may be amended or supplemented only by an instrument in writing duly executed by or on behalf of the Owners, or their successors and assigns, and PHIA, or its successors and assigns, and recorded among the Land Records of Baltimore County, Maryland.

11. BENEFIT TO PARTIES, SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of the parties hereto, their successors and assigns.

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 7th day of OCTOBER, in the year Two Thousand, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared David Marks, President of the Perry Hall Improvement Association, Inc., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing restrictive covenant and improvement agreement to be the act of the corporation and that he is empowered and authorized to sign same on its behalf, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Charles Emanuel
Notary Public 10/7/04

My commission expires: November 1, 2001

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, in the year TWO THOUSAND, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared SHANNON PATRICK KENNEDY AND DAVID A. SMOLEY known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and they acknowledged the foregoing restrictive covenant and improvement agreement to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Karen Smoley
Notary Public

My commission expires: December 23, 2003

EXHIBIT A

BEGINNING FOR THE FIRST at a point in the Belair Road and in the first or south 48 degrees 25 minutes west 965 foot 8 inch line of that tract of land which by Deed dated August 15, 1938 and recorded among the Land Records of Baltimore County in Liber CWB,Jr. No. 1038, folio 274, etc., was conveyed by Frederick J. Schlosstein and wife to Charles H. Koffenberger, said point of beginning being distant 726.93 feet north 48 degrees 25 minutes east from a crossmark heretofore cut in the bed of said Belair Road, at the end of the said first line (as shown on a plat dated May 18, 1948 and prepared by H. S. Morfoot, County Surveyor of Baltimore County from a survey for Charles H. Koffenberger) thence leaving the said first line, and the bed of said Belair Road, north 41 degrees 28 minutes west 23.75 feet to an iron pipe now planted and to the northwesternmost right-of-way line of said Belair Road as now constructed; thence running with and binding on the northeasternmost side of a road or right-of-way (50 feet wide) to be kept open for use in common with others entitled thereto, north 41 degrees 28 minutes west 150.00 feet to an iron pipe now planted; thence leaving the said northeasternmost side of said road or right-of-way and running for lines of division the two following courses and distance, viz: north 48 degrees 32 minutes east 100.00 feet to an iron pipe now planted, and south 41 degrees 28 minutes east 150.00 feet to an iron pipe now planted on the afore-described northwesternmost right-of-way line of Belair Road as now constructed, thence south 41 degrees 28 minutes east 23.55 feet to intersect the aforesaid first line; thence running with and binding on part of said first line south 48 degrees 25 minutes west 100.00 feet to the place of beginning. Containing 0.344 acres of land, more or less; the improvements thereon being known as 9414 Belair Road.

BEGINNING FOR THE SECOND AND THIRD PARCELS, AND BEING KNOWN AND DESIGNATED as Lot 1 in Block A and the triangular parcel of land bounding on the West side of Lot 1 in Block A, having dimensions of which are 122.69 feet by 141.24 feet by 50.0 feet, all as shown on the Plat entitled, "Pinedale", which Plat is recorded among the Land Records of Baltimore County in Plat Book GLB No. 18, folio 82.

SAVING AND EXCEPTING THEREFROM so much thereof as by Deed dated May 30, 1996 and recorded among the Land Records of Baltimore County in Liber SM No. 11614, folio 434, was granted and conveyed by Antoinete Brady Beall to the State of Maryland to the use of the State Highway Administration of the Department of Transportation.

RECORD AND RETURN TO:

Shannon Patrick Kennedy/David A. Smoley
8846 Belair Road
Baltimore, MD 21236
File #12513

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

February 16, 2007

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME	TELEFAX NO.
John V. Murphy, Esquire, Deputy Zoning Commissioner	410-887-3468

FROM: HOWARD L. ALDERMAN, JR., ESQUIRE

NUMBER OF PAGES (INCLUDING THIS COVER PAGE): 2

CLIENT/MATTER: RO as "Residential" Zone

COMMENTS: **Jack: here is a copy of page 1-27 of the BCZR which reflects the change in definition of "Residential Zone" effected by County Council Bill 149-2004. Have a great weekend.**

[x] ORIGINAL WILL NOT BE MAILED

If you do not receive all of the pages indicated above, please call 321-0600 as soon as possible. My return FAX Number is (410) 296-2801.

WARNING: UNAUTHORIZED INTERCEPTION OF THIS TELEFAX COMMUNICATION COULD BE A VIOLATION OF FEDERAL AND MARYLAND LAW.

The information contained in this transmission is attorney privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect and return the original message to us at the above address via the U.S. Postal Service. We will reimburse you for expenses. Thank You.

C. Used for:

1. Computer and data processing services;
2. Laboratories;
3. The manufacture, assembly, service or repair of any product listed in Section 209.3.A.7;
4. Offices;
5. Research institutes;
6. Warehouses in combination with and physically attached to any of the above uses, if the warehouse accounts for no more than 30% of the total gross floor area;
7. Supporting infrastructure for any of the above uses; or
8. Any combination of such uses.

RESIDENTIAL ART SALON — A portion of a dwelling unit used for the exhibition and sale of original works of art. For the purposes of these regulations, an "original work of art" shall include a numbered reproduction from a series of no more than 50, which reproduction is individually signed by the artist. A "residential art salon" does not include a photographic studio, a tattoo or body piercing establishment, or any place where an indelible mark or figure is placed on a person by needle insertion of pigment under the skin or where the skin is pierced for the purpose of inserting an object. **[Bill Nos. 85-1967; 32-1978; 76-1997]**

RESIDENTIAL ZONE — A zone classified as R.C., D.R., R.O., R-O-A or R.A.E. "Zoned for residential purposes"; within a residential zone. **[Bill Nos. 98-1975; 170-1991; 149-2004]**

RESTAURANT, CARRY-OUT — An establishment whose principal business is the sale of ready-to-consume food and beverages to customers who order their food and beverages over the counter, by telephone or by fax machine and whose principal characteristic is that food and beverages are consumed off the premises. **[Bill No. 110-1993]**

RESTAURANT, FAST-FOOD — An establishment whose principal business is to sell ready-to-consume food and beverages in disposable containers and which is not a drive-in restaurant. A fast-food restaurant has some or all of the following characteristics:

Prepackaged frozen, chilled or sealed food and meals are cooked in advance for immediate sale.

Food and beverages are ordered over the counter or by motorists from within their vehicles.

Food and beverages are consumed on the premises of the restaurant or within a motor vehicle on or off the premises. **[Bill No. 110-1993]**

RESTAURANT, FAST-FOOD, DRIVE-THROUGH ONLY — A fast-food restaurant, as defined in Section 101, except that no customer seating is provided inside the restaurant. Food and beverages are ordered by motorists from a drive-through lane or from a walk-up window on the outside of the building or within a vestibule. Orders are primarily

IN RE: PETITION FOR VARIANCE NW side of Belair Road and NE side of Pinedale Drive 11th Election District 5th Councilmanic District **(9414 Belair Road)** 9414 Belair Road LLC, S. Patrick Kennedy, Member *Petitioners*	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 07-285-A

* * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, 9414 Belair Road LLC, S. Patrick Kennedy, Member. The Petitioners are requesting variance relief for property located at 9414 Belair Road. The variance request to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed, and other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or in the alternative for the same sign to permit along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

The property was posted with Notice of Hearing on January 30, 2007 for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief and time and date of the public hearing. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on February 1, 2007 to notify any interested persons of the scheduled hearing date and relief requested.

3-1-07

Applicable Law

Section 307 of the B.C.Z.R. – *Variances.*

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated January 25, 2007. That Office is of the opinion that the request can be justified provided the Petitioner remove the 'balloon' proposal from the sign detail. Balloons and banners shall not be permanently permitted on any proposed or existing signage.

Interested Persons

Appearing at the hearing on behalf of the variance request were Geoffrey Schultz, with McKee & Associates, Inc., who prepared the site plan, as well as Patrick Kennedy, Cathy Werner, Olga Chesser, Dennis Eckard, Missy Wolinski. Howard Alderman, Esquire, represented the Petitioner. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

Testimony and Evidence

The subject property contains 0.6 acres zoned RO and is improved by an existing two story office building whose principal tenant is REMAX Realtors as shown in exhibit 1. Mr. Alderman indicated that the Class B office building was allowed by special exception in Case No. 02-551-XA (exhibit 3). The property is located at the intersection of Belair Road (Md. Rt. 1) and Pinedale Drive. The Petitioners would like to erect a sign listing the tenants on Belair Road as shown in the sign detail. This sign meets all sign regulations as to size and height and conforms to the Restrictive Covenants between the Petitioner and the Perry Hall Improvement Association (exhibit 5). Case No. 02-551-XA allowed a non illuminated free standing sign 15 square feet in size and 6 feet in height all of which the proposed sign meets.

Directory Sign

The need for variance arises because the proposed sign shown in the sign detail of exhibit 1, has letters that exceed the allowed height of 2 inches for tenant names as specified in Section 450.4 which in turn refers to Section 450.7 A 1. The proposed lettering is 2.250 inches in height. In addition "other lettering" may not be larger than 3 inches in height. The proposed sign has "other lettering" as 4 and 6 inches in height. Mr. Alderman presented photographs of the many signs in the immediate area which exceed the lettering size specified in the regulations as exhibit 4. He also observed that Belair Road is a major arterial roadway on which motorist regularly exceed the posted speed limit of 40 mph. Consequently he opined that larger letters are justified for the safety of the public.

He noted that the Zoning Office is opposed to the proposed sign as a directory sign as Section 450.7.A 2 does not list RO as a zoning classification in which directory signs are permitted. In addition the proposed sign has advertising and a REMAX logo of a balloon

included on the sign. The Planning Office supports the request for larger letters given the intensity of the land use in the area but requests the balloon be deleted from the sign. Mr. Alderman indicated that the balloon is not in any way an actual balloon but a trademark symbol of REMAX which is specifically allowed by the definition of "Sign" in Section 450.3.

In the alternative, Mr. Alderman indicated that the proposed sign would qualify as an enterprise sign under Section 450.4 Table of Sign Regulations, Part 5 (m), which allows one free standing sign in an RO zone of the size and height proposed in the "additional limitations" column. However this approach has a zoning problem as well. Although the size of the letters is not restricted, and the sign would face residentially zoned property which is not allowed under the "additional limitations" column. He noted in 2000 the Council changed the zoning on this property to RO and in 2004 included RO as a "residential zone" in the definition section of the regulations. This sign faces RO property and DR 3.5 zoned property to the north as well as RO property and ROA zoned property to the south, all of which are residential zones.

Mr. Alderman noted again that the sign size was specifically negotiated with the community association as reflected in the Restrictive Covenants, that Belair Road has high travel speeds, and the property an irregular shape. Consequently he opined the property was unique from a zoning perspective. He indicated that the requested sign was the minimum needed, the public needs to find the tenants safely, and there will be no adverse impact on the community. Mr. Eckart supported the request.

Findings of Fact and Conclusions of Law

I have no reason to deny the Petitioner's a freestanding sign on Belair Road announcing the tenants of the building. The sign meets the size approved in Case No. 02-551-XA. It meets the spirit and intent of the agreement of the Petitioner with the Perry Hall Improvement

3-1-07

Association. The problem is that the sign proposed in the sign detail in exhibit 1 does not fit easily into the present sign regulations.

By far the most desirable sign for this location and in this situation would be a directory sign and not an enterprise sign. I accept the fact that travel speed on Belair Road is 40 + mph and slightly larger letters than specified in Section 450.7.A.1 are appropriate.

The primary problem with proceeding under the directory sign subsection is that the Zoning Office has apparently taken the position that the freestanding sign proposed in this case is not a directory sign and as such is not listed in Section 450.7.A.2 as a zone in which directory signs are allowed.

In regard to the latter concern I note that BCZR Section 450.4 "Table of Sign Regulations" subsection 4, Directory signs, clearly indicates that directory signs are allowed *in all zones*. I find that the referred listing of certain zones in Section 450.7.A.2 is not a definitive list of zones in which directory signs are allowed but rather additional (or limiting) qualifications in these enumerated zones requiring tenants have direct outside access. Not finding the RO zone among this list simply means that there are no access limitations for directory signs in RO zones.

The next issue is whether or not the sign presented in the sign detail of Exhibit 1 is in fact a directory sign. As far as I can determine the Zoning Office views directory signs as those one would encounter on entering a large office complex which list the tenants of a building but are not on a public street. Perhaps each building would have a directory sign whether freestanding or wall mounted. This is supported by Section 450.7.A.3 which requires 25 feet between directory signs. Finally the definition of directory signs specifies it is an "accessory sign" which again indicates the intention of the regulation is for minor signs in a large complex listing tenants in a given building. In addition a directory sign would not have the REMAX balloon or the other

advertising features presented on the proposed sign. Finally Zoning Review sees Section 450.8.A.2 as prohibiting a new sign class not otherwise allowed which they interpret the proposed sign to be if considered a directory sign.

As I understand the situation the Zoning Office apparently sees the proposed sign as an enterprise sign because it is not simply a listing of tenants of the building, because of its size and location on a main street. They review the Table of Sign Regulations, subsection 5, and find the only place enterprise signs are permitted in an RO zone is in sub subsection (m). This lists wall mounted signs under "structural type" but also allows freestanding signs if the sign does not face a residential zoned property under the column of "additional limitations". They approach the problem generally from the historical position that no free standing signs were allowed in an RO zone when that zone was originally created. However it appears that this prohibition was removed by Bill 89-1997 which now specifies that signs are permitted subject to Section 450, the general sign regulation.

Considering the above observations and argument of Counsel, I note that the first question is whether the proposed sign is a directory sign? The sign proposed certainly lists the tenants but then has the words "American Dream" and the REMAX balloon logo as well. These are not tenant listings. Also directory signs are to be accessory to what? To another sign? If so, directory signs would be lesser in size and scope to a principal structure perhaps such as an enterprise sign announcing and advertising the property? Or is a directory sign accessory to the use of the property generally such as office use?

From my perspective if the sign simply said "REMAX Realtors" along with the other tenants it clearly would be a directory sign even if freestanding on the street. I see no reason that a directory sign cannot be seen from the road or is along the right of way. But this is not what is

3-1-07

proposed. REMAX wants to advertise the "American Dream" and its trademark balloon as well in "other letters" which far exceed the size given in the regulations. If so, it would appear to be an enterprise sign as the Zoning Office contends. However an enterprise sign in the RO zone would be allowed facing only non residentially zoned property. This sign clearly faces residentially zoned property. This would amount to a use variance which this Commission is not allowed to do.

My solution to this peculiar problem is to find that the sign proposed with certain changes qualifies as a directory sign which is allowed in all zones including RO. However the sign must list only the tenants and cannot contain advertising such as the words "American Dream". I accept Counsel's observation that the REMAX balloon logo is allowed along with letters under the definition of "sign". I find that the logo can be primarily a means of identification and not advertising if it is small enough. Consequently the balloon logo can appear as "other letters" in the sign but there is no need to greatly exceed the 2.250 inch height size which the Petitioner has asserted as sufficient for identification purposes

In summary given the speed of travel on Belair Road, I will approve the variance to allow letters of tenants to be 2.25 inches in height in lieu of the required 2 inches. However I will deny the request for variance for larger size of "other letters" in regard to size.

For the letter size variance granted, I find that the property is unique given its location on a major roadway, and multiplicity of signs in the area. *Cromwell v Ward* recognizes "practical restrictions imposed by abutting properties (such as obstructions) as evidence of the uniqueness of property. Such as are evident here. Therefore I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request which impact this property disproportionately.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Given the travel speeds along Belair Road there would be a hardship on the traveling public to locate tenants in the building if the regulations were strictly enforced.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. A 15 square foot sign has been approved by the prior zoning case and the Perry Hall Improvement Association.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, this 1st day of March, 2007 by this Deputy Zoning Commissioner, that the Petitioner's variance request from Section 450.7.A.1 to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed, and to amend the site plan and sign detail in Case No. 02-551-XA accordingly, is hereby GRANTED subject to the following conditions:

1. The Petitioner may apply for its permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition; and
2. There shall be no advertising on the sign. The words "American Dream" shall be deleted.
3. The REMAX balloon logo is permitted either in tenant lists or other letters but shall not exceed 2.25 inches in height if included in tenant listing and 3 inches in height if in other letters.

IT IS FURTHER ORDERED that the Petitioner's request for variance from Section 450.7.A.1 to allow "other lettering" up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or to permit a freestanding, non-illuminated, double-faced enterprise sign, along a principal arterial, adjoining and/or facing 'residentially' zoned property, is hereby DENIED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

3-1-07
B

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 1, 2007

9414 BELAIR ROAD LLC
S. PATRICK KENNEDY, MEMBER
2613 GUNPOWDER ROAD
FALLSTON MD 21047

Re: Petition for Variance
Case No. 07-285-A
Property: 9414 Belair Road

Dear Mr. Kennedy:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner

JVM:pz

Enclosure

c: Howard Alderman, Esquire, Levin & Gann, 502 Washington Avenue, 8TH Floor, Towson, MD 21204
Geoffrey Schultz, Mckee & Associates, Inc., 5 Shawan Road, Suite 1, Cockeysville MD 21030
Cathy Werner, 2613 Gunpowder Farms Road, Fallston MD 21047
Olga Chesser, 9110 Deviation Road, Baltimore MD 21236
Dennis Eckard, 39 Bangersave, Perry Hall MD 21128
Missy Wolinski, 814 Creek Road, Baltimore MD 21236
Carl Richards, Supervisor, Zoning Review

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
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410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

March 30, 2006

HAND DELIVERED
Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue, Suite 111
Towson, Maryland 21204

Stamp here and initial indicating date appeal was filed:

RECEIVED
MAR 3 2007
Per.....

RE: 9414 Belair Road
9414 Belair Road, LLC Petitioner
Case No. 07-285-A
Notice of Limited Appeal

Dear Mr. Kotroco:

On behalf of my client, 9414 Belair Road, LLC, Petitioner in the above-referenced Case, an appeal of those portions of the March 1, 2007 decision of the Deputy Zoning Commissioner for Baltimore County DENYING RELIEF to the Petitioner is hereby noted to the County Board of Appeals for Baltimore County. This appeal does not include the relief that was APPROVED by the Deputy Commissioner. My client is both aggrieved and a [corporate] person feeling aggrieved by the Commissioner's decision. This appeal is authorized by *Baltimore County Code* §32-3-401 and I have enclosed this firm's check in the amount of $400 as the requisite filing fee that representatives of your department advised would be charged. If the enclosed fee is incorrect, please contact my office immediately so that the correct amount can be submitted.

Upon the docketing of this appeal, please transmit all required papers, exhibits and other evidence to the Board of Appeals. Should you or your staff need additional information to enable the prompt processing of this appeal, as always, do not hesitate to contact me at your convenience.

Very truly yours,

Howard L. Alderman, Jr.

HLA/gk
Enclosure
c: 9414 Belair Road, LLC
County Board of Appeals

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 1, 2007

9414 BELAIR ROAD LLC
S. PATRICK KENNEDY, MEMBER
2613 GUNPOWDER ROAD
FALLSTON MD 21047

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Case No. 07-285-A
Property: 9414 Belair Road

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Very truly yours,

John V. Murphy

John V. Murphy
Deputy Zoning Commissioner

JVM:pz

Enclosure

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"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated January 25, 2007. That Office is of the opinion that the request can be justified provided the Petitioner remove the 'balloon' proposal from the sign detail. Balloons and banners shall not be permanently permitted on any proposed or existing signage.

Interested Persons

Appearing at the hearing on behalf of the variance request were Geoffrey Schultz, with McKee & Associates, Inc., who prepared the site plan, as well as Patrick Kennedy, Cathy Werner, Olga Chesser, Dennis Eckard, Missy Wolinski. Howard Alderman, Esquire, represented the Petitioner. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

included on the sign. The Planning Office supports the request for larger letters given the intensity of the land use in the area but requests the balloon be deleted from the sign. Mr. Alderman indicated that the balloon is not in any way an actual balloon but a trademark symbol of REMAX which is specifically allowed by the definition of "Sign" in Section 450.3.

In the alternative, Mr. Alderman indicated that the proposed sign would qualify as an enterprise sign under Section 450.4 Table of Sign Regulations, Part 5 (m), which allows one free standing sign in an RO zone of the size and height proposed in the "additional limitations" column. However this approach has a zoning problem as well. Although the size of the letters is not restricted, and the sign would face residentially zoned property which is not allowed under the "additional limitations" column. He noted in 2000 the Council changed the zoning on this property to RO and in 2004 included RO as a "residential zone" in the definition section of the regulations. This sign faces RO property and DR 3.5 zoned property to the north as well as RO property and ROA zoned property to the south, all of which are residential zones.

Mr. Alderman noted again that the sign size was specifically negotiated with the community association as reflected in the Restrictive Covenants, that Belair Road has high travel speeds, and the property an irregular shape. Consequently he opined the property was unique from a zoning perspective. He indicated that the requested sign was the minimum needed, the public needs to find the tenants safely, and there will be no adverse impact on the community. Mr. Eckart supported the request.

Findings of Fact and Conclusions of Law

I have no reason to deny the Petitioner's a freestanding sign on Belair Road announcing the tenants of the building. The sign meets the size approved in Case No. 02-551-XA. It meets the spirit and intent of the agreement of the Petitioner with the Perry Hall Improvement

advertising features presented on the proposed sign. Finally Zoning Review sees Section 450.8.A.2 as prohibiting a new sign class not otherwise allowed which they interpret the proposed sign to be if considered a directory sign.

As I understand the situation the Zoning Office apparently sees the proposed sign as an enterprise sign because it is not simply a listing of tenants of the building, because of its size and location on a main street. They review the Table of Sign Regulations, subsection 5, and find the only place enterprise signs are permitted in an RO zone is in sub subsection (m). This lists wall mounted signs under "structural type" but also allows freestanding signs if the sign does not face a residential zoned property under the column of "additional limitations". They approach the problem generally from the historical position that no free standing signs were allowed in an RO zone when that zone was originally created. However it appears that this prohibition was removed by Bill 89-1997 which now specifies that signs are permitted subject to Section 450, the general sign regulation.

Considering the above observations and argument of Counsel, I note that the first question is whether the proposed sign is a directory sign? The sign proposed certainly lists the tenants but then has the words "American Dream" and the REMAX balloon logo as well. These are not tenant listings. Also directory signs are to be accessory to what? To another sign?. If so, directory signs would be lesser in size and scope to a principal structure perhaps such as an enterprise sign announcing and advertising the property? Or is a directory sign accessory to the use of the property generally such as office use?

From my perspective if the sign simply said "REMAX Realtors" along with the other tenants it clearly would be a directory sign even if freestanding on the street. I see no reason that a directory sign cannot be seen from the road or is along the right of way. But this is not what is

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Given the travel speeds along Belair Road there would be a hardship on the traveling public to locate tenants in the building if the regulations were strictly enforced.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. A 15 square foot sign has been approved by the prior zoning case and the Perry Hall Improvement Association.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, this 1st day of March, 2007 by this Deputy Zoning Commissioner, that the Petitioner's variance request from Section 450.7.A.1 to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed, and to amend the site plan and sign detail in Case No. 02-551-XA accordingly, is hereby GRANTED subject to the following conditions:

1. The Petitioner may apply for its permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition; and
2. There shall be no advertising on the sign. The words "American Dream" shall be deleted.
3. The REMAX balloon logo is permitted either in tenant lists or other letters but shall not exceed 2.25 inches in height if included in tenant listing and 3 inches in height if in other letters.

BALTIMORE COUNTY, MARYLAND
OFFICE OF BUDGET & FINANCE
MISCELLANEOUS RECEIPT

No. 27980

DATE 4·19·07 ACCOUNT 001·006·6150

AMOUNT $ 400.00

RECEIVED FROM: Howard Alderman

FOR: Appeal #07-285-A
9414 Belair Road

DISTRIBUTION
WHITE - CASHIER PINK - AGENCY YELLOW - CUSTOMER

PAID RECEIPT
BUSINESS ACTIVITY DATE TIME
4/20/2007 4:19 PM 14:49:52
REG WSOC ADJ
RECEIPT # 140[illegible] 4/20/2007
Dept 1 5.8 ZONING VERIFICATION
TR NO. 0279.0
Appeal Fee $400.00
$400.00 $.00
Validation Code

CASHIER'S VALIDATION

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

February 7, 2007

Howard L. Alderman, Jr., Esquire
Levin & Gann, PA
Nottingham Centre, 8th Floor
502 Washington Avenue
Towson, MD 21204

Dear Mr. Alderman:

RE: Case Number: 07-285-A, 9414 Belair Road

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on December 20, 2006.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours,

W. Carl Richards, Jr.
Supervisor, Zoning Review

WCR:amf

Enclosures

c: People's Counsel
Geoffrey C. Schultz, PLS McKee & Associates, Inc. 5 Shawan Road, Suite 1 Hunt Valley 21030-1373
9414 Belair Road LLC S. Patrick Kennedy, Member 2613 Gunpowder Road Fallston 21047-2205

BALTIMORE COUNTY, MARYLAND

INTER-OFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits and
Development Management

DATE: January 25, 2007

FROM: Arnold F. 'Pat' Keller, III
Director, Office of Planning

SUBJECT: 9414 Belair Road

INFORMATION:

Item Number: 7-285

Petitioner: S. Patrick Kennedy

Zoning: RO

Requested Action: **Variance**

SUMMARY OF RECOMMENDATIONS:

The subject property is currently zoned RO (Residential Office), and was granted a Special Exception on July 29th, 2002 to allow a class B office to operate on the site (case 02-551-XA). Section 450.7 of the Baltimore County Zoning Regulations (BCZR) states that the lettering on a directory sign indicating the names and locations of the occupants may not be larger than two (2) inches high. Given that the intensity of the land use has been increased (via Special Exception) beyond that which would be permitted by right under the zone class, this Office is of the opinion that granting a variance to permit a non-illuminated, double-faced directory sign to have lettering up to two and one-quarter inches (2.25") in height, can be justified provided the petitioner remove the 'balloon' proposal from the sign detail. Balloons and banners shall not be permanently permitted on any proposed or existing signage.

For further information concerning the matters stated here in, please contact Kevin Gambrill at 410-887-3480.

Reviewed by: Cynthia D. Murray

Division Chief: Lyn Lanham
AFK/LL: CM

W:\DEVREV\ZAC\7-285.doc

Robert L. Ehrlich, Jr., *Governor*
Michael S. Steele, *Lt. Governor*

SHA State Highway Administration
Driven to Excel
Maryland Department of Transportation

Robert L. Flanagan, *Secretary*
Neil J. Pedersen, *Administrator*

Date: JAN. 3, 2007

Ms. Kristen Matthews
Baltimore County Office Of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE: Baltimore County
Item No. 7-285-A
9414 BELAIR ROAD
9414 BELAIR RD, LLC
VARIANCE - PERMIT A
NON-ILLUMINATED SIGN

Dear Ms. Matthews:

Thank you for the opportunity to review your referral request on the subject of the above captioned. We have determined that the subject property does not access a State roadway and is not affected by any State Highway Administration projects. Therefore, based upon available information this office has no objection to Baltimore County Zoning Advisory Committee approval of Item No. 7-285A.

Should you have any questions regarding this matter, please contact Michael Bailey at 410-545-2803 or 1-800-876-4742 extension 5593. Also, you may E-mail him at (mbailey@sha.state.md.us).

Very truly yours,

Michael P. Bailey

For Steven D. Foster, Chief
Engineering Access Permits
Division

SDF/MB

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

TO: Timothy M. Kotroco, Director
Department of Permits & Development
Management

DATE: January 3, 2007

FROM: Dennis A. Kennedy, Supervisor
Bureau of Development Plans Review

SUBJECT: Zoning Advisory Committee Meeting
For January 8, 2006
Item Nos. 07-281, 284, 285, 286, 287, 288,
289, 291, 292, and 293

The Bureau of Development Plans Review has reviewed the subject zoning items and we have no comments.

DAK:CEN:clw
cc: File
ZAC-NO COMMENTS-01032007.doc

PLEASE PRINT CLEARLY

CASE NAME_____
CASE NUMBER_____
DATE_____

PETITIONER'S SIGN-IN SHEET

NAME	ADDRESS	CITY, STATE, ZIP	E- MAIL
GEOFFREY C. SCHULTZ	5 SHAWAN ROAD	HUNT VALLEY, MD. 21030	
Patrick Kennedy	2613 Gunpowder Farms Road	Fallston, MD 21047	
CATHY WERNER	2613 GUNPOWDER FARMS RD	FALLSTON, MD 21047	
"Auggie" Olga Chesser	9110 Deviation Rd	Baltimore MD 21236	
HOWARD L ALDERMAN JR	502 Washington Ave Suite 550	Towson MD 21204	
DENNIS ECKARD	39 BANGER AVE	Perry Hall Md 21128	
Missy Wolinski	814 Creek Rd	Balt, MD 21236	

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

TIMOTHY M. KOTROCO, *Director*
Department of Permits and Development Management

April 19, 2007

S. Patrick Kennedy, Member
9414 Belair Road LLC
2613 Gunpowder Road
Fallston, MD 21047-2205

Dear Mr. Kennedy:

RE: Case: 07-285-A, 9414 Belair Road

Please be advised that an appeal of the above-referenced case was filed in this office on March 30, 2007 by Howard L. Alderman, Jr. All materials relative to the case have been forwarded to the Baltimore County Board of Appeals (Board).

If you are the person or party taking the appeal, you should notify other similarly interested parties or persons known to you of the appeal. If you are an attorney of record, it is your responsibility to notify your client.

If you have any questions concerning this matter, please do not hesitate to call the Board at 410-887-3180.

Sincerely,

Timothy Kotroco
Director

RECEIVED
APR 20 2007
BALTIMORE COUNTY
BOARD OF APPEALS

TK:amf

c: William J. Wiseman III, Zoning Commissioner
Timothy Kotroco, Director of PDM
People's Counsel
Howard L. Alderman, Jr., Esquire Levin & Gann, PA 502 Washington Avenue, 8th Floor Towson 21204
Geoffrey C. Schultz, PLS McKee & Associates, Inc. 5 Shawan Road, Suite 1 Hunt Valley 21030-1373
Patrick Kennedy 2613 Gunpowder Farms Road Fallston 21047
Cathy Werner 2613 Gunpowder Farms Road Fallston 21047
"Auggie" Olga Chesser 9110 Deviation Road Baltimore 21236
Dennis Eckard 39 Bangert Avenue Perry Hall 21128
Missy Wolinski 814 Creek Road Baltimore 21236

IN RE: PETITION FOR VARIANCE NW side of Belair Road and NE side of Pinedale Drive 11th Election District 5th Councilmanic District **(9414 Belair Road)** 9414 Belair Road LLC, S. Patrick Kennedy, Member *Petitioners*	* * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 07-285-A

* * * * * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Variance filed by the legal owners of the subject property, 9414 Belair Road LLC, S. Patrick Kennedy, Member. The Petitioners are requesting variance relief for property located at 9414 Belair Road. The variance request to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed, and other lettering up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or in the alternative for the same sign to permit along a principal arterial, a freestanding, non-illuminated, double-faced enterprise sign, adjoining and/or facing 'residentially' zoned property, all as shown more particularly on the Plat to Accompany this Petition and to amend the site plan and sign detail in Case No. 02-551-XA, consistent with the relief requested.

The property was posted with Notice of Hearing on January 30, 2007 for 15 days prior to the hearing, in order to notify all interested citizens of the requested zoning relief and time and date of the public hearing. In addition, a Notice of Zoning hearing was published in "The Jeffersonian" newspaper on February 1, 2007 to notify any interested persons of the scheduled hearing date and relief requested.

3-1-07

Applicable Law

Section 307 of the B.C.Z.R. – *Variances.*

"The Zoning Commissioner of Baltimore County and the County Board of Appeals, upon appeal, shall have and they are hereby given the power to grant variances from height and area regulations, from off-street parking regulations, and from sign regulations only in cases where special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request and where strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. No increase in residential density beyond that otherwise allowable by the Zoning Regulations shall be permitted as a result of any such grant of a variance from height or area regulations. Furthermore, any such variance shall be granted only if in strict harmony with the spirit and intent of said height, area, off-street parking or sign regulations, and only in such manner as to grant relief without injury to the public health, safety and general welfare. They shall have no power to grant any other variances. Before granting any variance, the Zoning Commissioner shall require public notice to be given and shall hold a public hearing upon any application for a variance in the same manner as in the case of a petition for reclassification. Any order by the Zoning Commissioner or the County Board of Appeals granting a variance shall contain a finding of fact setting forth and specifying the reason or reasons for making such variance."

Zoning Advisory Committee Comments

The Zoning Advisory Committee (ZAC) comments are made part of the record of this case and contain the following highlights: ZAC comments were received from the Office of Planning dated January 25, 2007. That Office is of the opinion that the request can be justified provided the Petitioner remove the 'balloon' proposal from the sign detail. Balloons and banners shall not be permanently permitted on any proposed or existing signage.

Interested Persons

Appearing at the hearing on behalf of the variance request were Geoffrey Schultz, with McKee & Associates, Inc., who prepared the site plan, as well as Patrick Kennedy, Cathy Werner, Olga Chesser, Dennis Eckard, Missy Wolinski. Howard Alderman, Esquire, represented the Petitioner. There were no protestants or citizens at the hearing. People's Counsel, Peter Max Zimmerman, entered the appearance of his office in this case.

ORDER RECEIVED FOR FILING
3-1-07

Testimony and Evidence

The subject property contains 0.6 acres zoned RO and is improved by an existing two story office building whose principal tenant is REMAX Realtors as shown in exhibit 1. Mr. Alderman indicated that the Class B office building was allowed by special exception in Case No. 02-551-XA (exhibit 3). The property is located at the intersection of Belair Road (Md. Rt. 1) and Pinedale Drive. The Petitioners would like to erect a sign listing the tenants on Belair Road as shown in the sign detail. This sign meets all sign regulations as to size and height and conforms to the Restrictive Covenants between the Petitioner and the Perry Hall Improvement Association (exhibit 5). Case No. 02-551-XA allowed a non illuminated free standing sign 15 square feet in size and 6 feet in height all of which the proposed sign meets.

Directory Sign

The need for variance arises because the proposed sign shown in the sign detail of exhibit 1, has letters that exceed the allowed height of 2 inches for tenant names as specified in Section 450.4 which in turn refers to Section 450.7 A 1. The proposed lettering is 2.250 inches in height. In addition "other lettering" may not be larger than 3 inches in height. The proposed sign has "other lettering" as 4 and 6 inches in height. Mr. Alderman presented photographs of the many signs in the immediate area which exceed the lettering size specified in the regulations as exhibit 4. He also observed that Belair Road is a major arterial roadway on which motorist regularly exceed the posted speed limit of 40 mph. Consequently he opined that larger letters are justified for the safety of the public.

He noted that the Zoning Office is opposed to the proposed sign as a directory sign as Section 450.7.A 2 does not list RO as a zoning classification in which directory signs are permitted. In addition the proposed sign has advertising and a REMAX logo of a balloon

included on the sign. The Planning Office supports the request for larger letters given the intensity of the land use in the area but requests the balloon be deleted from the sign. Mr. Alderman indicated that the balloon is not in any way an actual balloon but a trademark symbol of REMAX which is specifically allowed by the definition of "Sign" in Section 450.3.

In the alternative, Mr. Alderman indicated that the proposed sign would qualify as an enterprise sign under Section 450.4 Table of Sign Regulations, Part 5 (m), which allows one free standing sign in an RO zone of the size and height proposed in the "additional limitations" column. However this approach has a zoning problem as well. Although the size of the letters is not restricted, and the sign would face residentially zoned property which is not allowed under the "additional limitations" column. He noted in 2000 the Council changed the zoning on this property to RO and in 2004 included RO as a "residential zone" in the definition section of the regulations. This sign faces RO property and DR 3.5 zoned property to the north as well as RO property and ROA zoned property to the south, all of which are residential zones.

Mr. Alderman noted again that the sign size was specifically negotiated with the community association as reflected in the Restrictive Covenants, that Belair Road has high travel speeds, and the property an irregular shape. Consequently he opined the property was unique from a zoning perspective. He indicated that the requested sign was the minimum needed, the public needs to find the tenants safely, and there will be no adverse impact on the community. Mr. Eckart supported the request.

Findings of Fact and Conclusions of Law

I have no reason to deny the Petitioner's a freestanding sign on Belair Road announcing the tenants of the building. The sign meets the size approved in Case No. 02-551-XA. It meets the spirit and intent of the agreement of the Petitioner with the Perry Hall Improvement

3-1-07

Association. The problem is that the sign proposed in the sign detail in exhibit 1 does not fit easily into the present sign regulations.

By far the most desirable sign for this location and in this situation would be a directory sign and not an enterprise sign. I accept the fact that travel speed on Belair Road is 40 + mph and slightly larger letters than specified in Section 450.7.A.1 are appropriate.

The primary problem with proceeding under the directory sign subsection is that the Zoning Office has apparently taken the position that the freestanding sign proposed in this case is not a directory sign and as such is not listed in Section 450.7.A.2 as a zone in which directory signs are allowed.

In regard to the latter concern I note that BCZR Section 450.4 "Table of Sign Regulations" subsection 4, Directory signs, clearly indicates that directory signs are allowed *in all zones*. I find that the referred listing of certain zones in Section 450.7.A.2 is not a definitive list of zones in which directory signs are allowed but rather additional (or limiting) qualifications in these enumerated zones requiring tenants have direct outside access. Not finding the RO zone among this list simply means that there are no access limitations for directory signs in RO zones.

The next issue is whether or not the sign presented in the sign detail of Exhibit 1 is in fact a directory sign. As far as I can determine the Zoning Office views directory signs as those one would encounter on entering a large office complex which list the tenants of a building but are not on a public street. Perhaps each building would have a directory sign whether freestanding or wall mounted. This is supported by Section 450.7.A.3 which requires 25 feet between directory signs. Finally the definition of directory signs specifies it is an "accessory sign" which again indicates the intention of the regulation is for minor signs in a large complex listing tenants in a given building. In addition a directory sign would not have the REMAX balloon or the other

advertising features presented on the proposed sign. Finally Zoning Review sees Section 450.8.A.2 as prohibiting a new sign class not otherwise allowed which they interpret the proposed sign to be if considered a directory sign.

As I understand the situation the Zoning Office apparently sees the proposed sign as an enterprise sign because it is not simply a listing of tenants of the building, because of its size and location on a main street. They review the Table of Sign Regulations, subsection 5, and find the only place enterprise signs are permitted in an RO zone is in sub subsection (m). This lists wall mounted signs under "structural type" but also allows freestanding signs if the sign does not face a residential zoned property under the column of "additional limitations". They approach the problem generally from the historical position that no free standing signs were allowed in an RO zone when that zone was originally created. However it appears that this prohibition was removed by Bill 89-1997 which now specifies that signs are permitted subject to Section 450, the general sign regulation.

Considering the above observations and argument of Counsel, I note that the first question is whether the proposed sign is a directory sign? The sign proposed certainly lists the tenants but then has the words "American Dream" and the REMAX balloon logo as well. These are not tenant listings. Also directory signs are to be accessory to what? To another sign? If so, directory signs would be lesser in size and scope to a principal structure perhaps such as an enterprise sign announcing and advertising the property? Or is a directory sign accessory to the use of the property generally such as office use?

From my perspective if the sign simply said "REMAX Realtors" along with the other tenants it clearly would be a directory sign even if freestanding on the street. I see no reason that a directory sign cannot be seen from the road or is along the right of way. But this is not what is

3-1-07

proposed. REMAX wants to advertise the "American Dream" and its trademark balloon as well in "other letters" which far exceed the size given in the regulations. If so, it would appear to be an enterprise sign as the Zoning Office contends. However an enterprise sign in the RO zone would be allowed facing only non residentially zoned property. This sign clearly faces residentially zoned property. This would amount to a use variance which this Commission is not allowed to do.

My solution to this peculiar problem is to find that the sign proposed with certain changes qualifies as a directory sign which is allowed in all zones including RO. However the sign must list only the tenants and cannot contain advertising such as the words "American Dream". I accept Counsel's observation that the REMAX balloon logo is allowed along with letters under the definition of "sign". I find that the logo can be primarily a means of identification and not advertising if it is small enough. Consequently the balloon logo can appear as "other letters" in the sign but there is no need to greatly exceed the 2.250 inch height size which the Petitioner has asserted as sufficient for identification purposes

In summary given the speed of travel on Belair Road, I will approve the variance to allow letters of tenants to be 2.25 inches in height in lieu of the required 2 inches. However I will deny the request for variance for larger size of "other letters" in regard to size.

For the letter size variance granted, I find that the property is unique given its location on a major roadway, and multiplicity of signs in the area. *Cromwell v Ward* recognizes "practical restrictions imposed by abutting properties (such as obstructions) as evidence of the uniqueness of property. Such as are evident here. Therefore I find special circumstances or conditions exist that are peculiar to the land or structure which is the subject of the variance request which impact this property disproportionately.

I further find that strict compliance with the Zoning Regulations for Baltimore County would result in practical difficulty or unreasonable hardship. Given the travel speeds along Belair Road there would be a hardship on the traveling public to locate tenants in the building if the regulations were strictly enforced.

Finally, I find this variance can be granted in strict harmony with the spirit and intent of said regulations, and in such manner as to grant relief without injury to the public health, safety and general welfare. A 15 square foot sign has been approved by the prior zoning case and the Perry Hall Improvement Association.

Pursuant to the advertisement, posting of the property, and public hearing on this petition held, and after considering the testimony and evidence offered by the Petitioners, I find that the Petitioners' variance request should be granted in part and denied in part.

THEREFORE, IT IS ORDERED, this 1st day of March, 2007 by this Deputy Zoning Commissioner, that the Petitioner's variance request from Section 450.7.A.1 to permit a non-illuminated, double-faced directory sign, with lettering indicating the names and locations of occupants up to 2.25 inches in size in lieu of the 2.0 inches allowed, and to amend the site plan and sign detail in Case No. 02-551-XA accordingly, is hereby GRANTED subject to the following conditions:

1. The Petitioner may apply for its permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at his own risk until such time as the 30 day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition; and
2. There shall be no advertising on the sign. The words "American Dream" shall be deleted.
3. The REMAX balloon logo is permitted either in tenant lists or other letters but shall not exceed 2.25 inches in height if included in tenant listing and 3 inches in height if in other letters.

IT IS FURTHER ORDERED that the Petitioner's request for variance from Section 450.7.A.1 to allow "other lettering" up to 4 inches and 6 inches in size in lieu of the 3 inches allowed, or to permit a freestanding, non-illuminated, double-faced enterprise sign, along a principal arterial, adjoining and/or facing 'residentially' zoned property, is hereby DENIED.

Any appeal of this decision must be made within thirty (30) days of the date of this Order.

John V. Murphy
JOHN V. MURPHY
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

JVM:pz

3-1-07

BALTIMORE COUNTY
MARYLAND

JAMES T. SMITH, JR.
County Executive

WILLIAM J. WISEMAN III
Zoning Commissioner

March 1, 2007

9414 BELAIR ROAD LLC
S. PATRICK KENNEDY, MEMBER
2613 GUNPOWDER ROAD
FALLSTON MD 21047

Re: Petition for Variance
Case No. 07-285-A
Property: 9414 Belair Road

Dear Mr. Kennedy:

Enclosed please find the decision rendered in the above-captioned case.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days from the date of the Order to the Department of Permits and Development Management. If you require additional information concerning filing an appeal, please feel free to contact our appeals clerk at 410-887-3391.

Very truly yours,

John V. Murphy
Deputy Zoning Commissioner

JVM:pz

Enclosure

c: Howard Alderman, Esquire, Levin & Gann, 502 Washington Avenue, 8TH Floor, Towson, MD 21204
Geoffrey Schultz, Mckee & Associates, Inc., 5 Shawan Road, Suite 1, Cockeysville MD 21030
Cathy Werner, 2613 Gunpowder Farms Road, Fallston MD 21047
Olga Chesser, 9110 Deviation Road, Baltimore MD 21236
Dennis Eckard, 39 Bangersave, Perry Hall MD 21128
Missy Wolinski, 814 Creek Road, Baltimore MD 21236
Carl Richards, Supervisor, Zoning Review

7/23

IN RE: PETITION FOR SPECIAL EXCEPTION N/W corner of Belair Road and Pinedale Drive 11th Election District 5th Councilmanic District (9414 Belair Road) Shannon Patrick Kennedy and David A. Smoley *Petitioner*	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-551-XA Prior Zoning

* * * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance for property located at 9414 Belair Road. The special exception and variance requests were filed by the legal owners of the subject property, Shannon P. Kennedy and David A. Smoley, by and through their attorney, Howard L. Alderman, Jr. The Petitioners are requesting special exception relief for permission to construct a Class B office building on the subject site. In addition, the Petitioners are requesting variance relief from Section 204.4.C.9.c.(1) of the Baltimore County Zoning Regulations, to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.853 acres of land, more or less, zoned R-O. The subject property is located on the northwest corner of the intersection of Belair Road and Pinedale Drive in Perry Hall. The property is currently improved with an existing single-family dwelling. The property owner wishes to tear down the old house and construct a 9,555 sq. ft. office building in its place. The details of the proposed development are more particularly shown on Petitioners' Exhibit No. 1,

the site plan submitted into evidence. In order to proceed with the construction of this office building the special exception request is necessary.

Appearing as an interested citizen in the matter was William Libercci, representing the Perry Hall Improvement Association. Mr. Libercci testified that his association entered into a restrictive covenant and improvements agreement dated the 7th day of October, 2000. That agreement was entered into evidence as Petitioners' Exhibit No. 2. Furthermore, Mr. Libercci testified that his association is requesting that the exit onto Belair Road from the subject property be a right-turn only exit. This will prevent individuals from attempting to make a left turn onto Belair Road, which can be a very dangerous maneuver.

Also appearing at the hearing and testifying in opposition to the Petitioners' request were Daryl Carpenter and George Mojzisek. These residents are very much concerned over the additional traffic which will be generated by this office building. Testimony indicated that Pinedale Drive is currently used by motorists as a shortcut from Belair Road to Seven Courts Drive. The use of the road as a cut through, coupled with the additional traffic generated by this office building causes these citizens concern over the amount of traffic at this intersection. Ms. Carpenter also testified that Pinedale Drive does not have curb and gutter over its entire length, which causes residents to have to utilize the paved portion of the roadway for pedestrian travel. Ms. Carpenter asks that the special exception not be granted to allow this office building to be constructed.

In addition to the special exception request to construct this building, the Petitioners are also requesting variance relief to allow a 10 ft. wide landscape buffer to the rear of the property, adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer on the side of the building adjacent to a predominantly

residentially zoned property in lieu of the minimum required 20 ft. Testimony and evidence offered by the Petitioner demonstrated that the areas set aside on the site plan submitted into evidence for landscaping are sufficient to provide an adequate screen to the surrounding properties. The 5 ft. wide buffer on the north side of the property abuts the Masonic Temple. The Masonic Temple property is zoned residential, however its use is institutional in nature. The property to the west, owned by John and Betty Pitcock, has a sufficient amount of screening. Accordingly, the variance shall be granted.

After considering the testimony and evidence offered in support, as well as the testimony in opposition to the Petitioners' request, I find that the special exception should be granted to allow the building to be constructed on this property. Furthermore, the variance relief should also be granted to allow a reduction in the landscape buffer areas as shown on the site plan submitted into evidence.

THEREFORE IT IS ORDERED, this 29th day July, 2002, by this Deputy Zoning Commissioner, that the Special Exception to construct a Class B office building in an R-O zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the variance relief to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the relief granted herein is subject to the following conditions and restrictions:

1. The Petitioners shall be required to submit a landscape plan to Avery Harden, Landscape Architect for Baltimore County, for his full review and approval.

2. The Restrictive Covenant and Improvements Agreement entered into with the Perry Hall Improvement Association dated October 7, 2000, a copy of which was submitted into evidence as Petitioners' Exhibit No. 2 shall be incorporated into this Order and enforceable as if part of this Order.

3. The Petitioners shall be required to designate the access to Belair Road as a right-turn exit only. Motorists leaving the subject site shall not be permitted to make left turns on Belair Road from that access point.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

Pet Ex #2

RESTRICTIVE COVENANT AND IMPROVEMENTS AGREEMENT

THIS RESTRICTIVE COVENANTS AND IMPROVEMENTS AGREEMENT, is made this 7th day of ~~September~~ October, 2000 by and between PERRY HALL IMPROVEMENT ASSOCIATION, INC., a Maryland not for profit Corporation ("PHIA") and SHANNON PATRICK KENNEDY and DAVID A. SMOLEY, owners of three parcels of property improved by a building known as 9414 Belair Road in the 11th election district of Baltimore County, (hereinafter known as "the Owners").

RECITALS

A. The Owners own three parcels of land located in the fifth (5th) councilmanic district (11th Election District) of Baltimore County described in a deed recorded among the land records of Baltimore County in Liber 14147, folio 030, containing approximately .69± acres, as more particularly described in Exhibit A (attached hereto and incorporated herein by reference).

B. The approximate .69 acre tract (hereinafter referred to as the "subject parcel") is improved by a building known as 9414 Belair Road, and currently is zoned D.R. 5.5 pursuant to the adopted 1996 Zoning Maps of Baltimore County.

C. The Owners desire to obtain R.O. zoning of the subject parcel as defined in the Baltimore County Zoning Regulations pursuant to Baltimore County's 2000 Comprehensive Zoning Map Process.

D. PHIA as a community association is concerned about the use and the development of the .69± acre subject parcel.

NOW, THEREFORE, in consideration of the mutual premises and the conditions and covenants hereinafter stated and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. RESTRICTIVE COVENANTS. In the event rezoning of the subject parcel is granted in the 2000 Comprehensive Zoning Map Process to R.O. and a special exception is granted, the Owners agree to use the subject parcel either for the use of an office building or as a single family dwelling.

2. BUILDING AGREEMENT. In the event rezoning of the subject tract is granted in the 2000 Comprehensive Zoning Map Process to R.O., in addition to any other requirements existing at the time of development under applicable state, county, and federal law, the Owners agree to submit for review and comment to PHIA, development and landscape plans for said subject parcel including building elevations containing a description of exterior materials to be used in the construction of said building and landscaping. The parties hereto agree that a special exception may be necessary

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PETITIONER'S EXHIBIT
2

to construct a new or expanded building on the site. The Owners hereby agree that the following are building and architectural guidelines to be followed:

a. SITE DESIGN. The site will be designed to accommodate a two story office building of no more than 10,000 square feet with parking for no more than thirty-three vehicles.

b. ARCHITECTURE. The exterior of the building will be designed to appear residential in character. It will be compatible with the neighborhood.

c. LANDSCAPING. A system of landscaping will be implemented which will seek to maintain the larger tree specimens along the perimeter of the property to the extent practicable. A ten foot landscaped buffer will be placed along the property line of the adjacent residential property to the west, again with an intent to preserve the mature specimens along the buffer area. Parking for the building shall be screened from Belair Road and be located in the side and rear of the building. No parking will be provided directly in front of the building.

d. SIGN. In addition to a sign on the building as permitted by zoning, a freestanding double-faced sign with no interior lighting of no more than fifteen square feet in dimension per face shall be permitted along Belair Road. If a variance is necessary to permit this sign under existing zoning regulations, then the parties hereto agree to support this variance.

3. COMPREHENSIVE ZONING MAP CONDITIONS. PHIA agrees to support the rezoning of the .69 acre subject tract to R.O. pursuant to this Agreement and the covenants contained herein in the 2000 Comprehensive Zoning Map Process and to support the special exception for the office building. The obligations of the Owners shall not become effective and binding upon the Owners unless and until the R.O. designation has been placed upon the property at the completion of the Comprehensive Zoning Map Process snd the special exception has been granted.

4. BINDING EFFECT; DURATION OF AGREEMENT. Immediately upon satisfaction of the conditions precedent stated in the preceding Section 3, the Owners shall cause these covenants, restrictions, and conditions to be recorded among the Land Records of Baltimore County, Maryland. The Owners shall then deliver to PHIA a copy of the covenants as recorded, along with evidence of their recordation. The covenants shall run with and be binding upon the Land, and upon all present and future owners thereof, and shall inure to the benefit of each of the parties respectively, and their successors and assigns for a period of twenty (20) years from the date of this Agreement.

Notwithstanding the preceding paragraph, this Agreement shall terminate and be of no further force or effect as to any portion of the property that is rezoned, in proceedings subsequent to the 2000 Comprehensive Zoning Map Process, to zoning other than R.O..

5. ENFORCEMENT. If any party to this Agreement, or any party's successor is required to institute legal action to enforce the terms of this Agreement, and is successful thereafter (whether by judgment or by settlement) in obtaining enforcement of the Agreement, that party or successor shall be entitled to recover reasonable attorneys' fees and other reasonable costs of the action from the person or entity against whom enforcement is obtained. However, as a prerequisite to the recovery of fees and costs under this paragraph, the person or entity seeking enforcement shall serve the alleged violator of the Agreement with written notice of the violation, and only if the alleged violator has failed to remedy or to make substantial progress toward remedying the violation within sixty (60) days after receipt of this notice may legal action be instituted.

6. CAPTIONS. All captions in this Agreement are for convenience only and do not in any way define, limit, amplify or describe the scope of the provisions hereof and shall not be utilized to interpret the provisions of this Agreement.

7. NO THIRD PARTY BENEFICIARIES. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give to any other person or entity any right, remedy or claim under this Agreement or by reason hereof.

8. GOVERNING LAWS. This Agreement shall be construed and governed in accordance with the laws of the State of Maryland applicable to contracts made and to be performed in the State of Maryland, without giving effect to the principles of conflicts of laws effective therein.

9. WAIVER. PHIA agrees to accept fully and without contest of any kind or nature the validity and legality of this rezoning of the D.R. 5.5 parcel to R.O. obtained by The Owners, and hereby waive the right to institute any future action, suit or legal proceeding involving this rezoning, excepting only any action, suit or other proceeding instituted for breach of this Agreement.

10. AMENDMENT. This Agreement may be amended or supplemented only by an instrument in writing duly executed by or on behalf of the Owners, or their successors and assigns, and PHIA, or its successors and assigns, and recorded among the Land Records of Baltimore County, Maryland.

11. BENEFIT TO PARTIES, SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the Owners and PHIA have executed this Agreement on the day and year first above written.

PERRY HALL IMPROVEMENT ASSOCIATION, INC.

ATTEST:

By: _____ (SEAL)
, President 10/7/00

_____ _____ (SEAL)
SHANNON PATRICK KENNEDY

_____ _____ (SEAL)
DAVID A. SMOLEY

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 7th day of OCTOBER, in the year Two Thousand, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared David Marks, President of the Perry Hall Improvement Association, Inc., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing restrictive covenant and improvement agreement to be the act of the corporation and that he is empowered and authorized to sign same on its behalf, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Charles Emanuel
Notary Public 10/7/06

My commission expires: November 1, 2021

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, in the year TWO THOUSAND, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared SHANNON PATRICK KENNEDY AND DAVID A. SMOLEY known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and they acknowledged the foregoing restrictive covenant and improvement agreement to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Karen Smoley
Notary Public

My commission expires: December 23, 2023

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned attorney, admitted to practice in the State of Maryland.

JOHN B. GONTRUM

AFTER RECORDING RETURN TO:

John B. Gontrum, Esq.
Romadka, Gontrum & McLaughlin, P.A.
814 Eastern Blvd.
Baltimore, Maryland 21221

EXHIBIT A

BEGINNING FOR THE FIRST at a point in the Belair Road and in the first or south 48 degrees 25 minutes west 965 foot 8 inch line of that tract of land which by Deed dated August 15, 1938 and recorded among the Land Records of Baltimore County in Liber CWB,Jr. No. 1038, folio 274, etc., was conveyed by Frederick J. Schlosstein and wife to Charles H. Koffenberger, said point of beginning being distant 726.93 feet north 48 degrees 25 minutes east from a crossmark heretofore cut in the bed of said Belair Road, at the end of the said first line (as shown on a plat dated May 18, 1948 and prepared by H. S. Morfoot, County Surveyor of Baltimore County from a survey for Charles H. Koffenberger) thence leaving the said first line, and the bed of said Belair Road, north 41 degrees 28 minutes west 23.75 feet to an iron pipe now planted and to the northwesternmost right-of-way line of said Belair Road as now constructed; thence running with and binding on the northeasternmost side of a road or right-of-way (50 feet wide) to be kept open for use in common with others entitled thereto, north 41 degrees 28 minutes west 150.00 feet to an iron pipe now planted; thence leaving the said northeasternmost side of said road or right-of-way and running for lines of division the two following courses and distance, viz: north 48 degrees 32 minutes east 100.00 feet to an iron pipe now planted, and south 41 degrees 28 minutes east 150.00 feet to an iron pipe now planted on the afore-described northwesternmost right-of-way line of Belair Road as now constructed, thence south 41 degrees 28 minutes east 23.55 feet to intersect the aforesaid first line; thence running with and binding on part of said first line south 48 degrees 25 minutes west 100.00 feet to the place of beginning. Containing 0.344 acres of land, more or less; the improvements thereon being known as 9414 Belair Road.

BEGINNING FOR THE SECOND AND THIRD PARCELS, AND BEING KNOWN AND DESIGNATED as Lot 1 in Block A and the triangular parcel of land bounding on the West side of Lot 1 in Block A, having dimensions of which are 122.69 feet by 141.24 feet by 50.0 feet, all as shown on the Plat entitled, "Pinedale", which Plat is recorded among the Land Records of Baltimore County in Plat Book GLB No. 18, folio 82.

SAVING AND EXCEPTING THEREFROM so much thereof as by Deed dated May 30, 1996 and recorded among the Land Records of Baltimore County in Liber SM No. 11614, folio 434, was granted and conveyed by Antoinete Brady Beall to the State of Maryland to the use of the State Highway Administration of the Department of Transportation.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

WITNESS the hand and seal of said Grantor.

WITNESS:

_____

_____ (SEAL)
DONNA R. GOSNELL,
Personal Representative of the
Estate of Antoinette F. Beall

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

I HEREBY CERTIFY, that on this 4TH day of November, 1999, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Donna R. Gosnell, Personal Representative of the Estate of Antoinette F. Beall, known (or satisfactorily proven) to me to be the person whose name is subscribed to the within Deed and acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same, and further acknowledged that the consideration as stated above is true and correct.

AS WITNESS my hand and Notarial Seal.

_____
Richard E. Lattanzi, Notary Public

RICHARD E. LATTANZI NOTARY PUBLIC BALTO CO., MD

My Commission Expires: August 1, 2001

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland attorney.

_____
Richard E. Lattanzi, Attorney

RECORD AND RETURN TO:

Shannon Patrick Kennedy/David A. Smoley
8846 Belair Road
Baltimore, MD 21236
File #12513

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

February 16, 2007

PLEASE DELIVER THE FOLLOWING PAGES TO:

NAME	TELEFAX NO.
John V. Murphy, Esquire, Deputy Zoning Commissioner	410-887-3468

FROM: HOWARD L. ALDERMAN, JR., ESQUIRE

NUMBER OF PAGES [INCLUDING THIS COVER PAGE]: 2

CLIENT/MATTER: RO as "Residential" Zone

COMMENTS: **Jack: here is a copy of page 1-27 of the BCZR which reflects the change in definition of "Residential Zone" effected by County Council Bill 149-2004. Have a great weekend.**

[x] ORIGINAL WILL NOT BE MAILED

If you do not receive all of the pages indicated above, please call 321-0600 as soon as possible.
My return FAX Number is (410) 296-2801.

WARNING: UNAUTHORIZED INTERCEPTION OF THIS TELEFAX COMMUNICATION COULD BE A VIOLATION OF FEDERAL AND MARYLAND LAW.

The information contained in this transmission is attorney privileged and confidential. It is intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution or copy of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone collect and return the original message to us at the above address via the U.S. Postal Service. We will reimburse you for expenses. Thank You.

C. Used for:

1. Computer and data processing services;
2. Laboratories;
3. The manufacture, assembly, service or repair of any product listed in Section 209.3.A.7;
4. Offices;
5. Research institutes;
6. Warehouses in combination with and physically attached to any of the above uses, if the warehouse accounts for no more than 30% of the total gross floor area;
7. Supporting infrastructure for any of the above uses; or
8. Any combination of such uses.

RESIDENTIAL ART SALON — A portion of a dwelling unit used for the exhibition and sale of original works of art. For the purposes of these regulations, an "original work of art" shall include a numbered reproduction from a series of no more than 50, which reproduction is individually signed by the artist. A "residential art salon" does not include a photographic studio, a tattoo or body piercing establishment, or any place where an indelible mark or figure is placed on a person by needle insertion of pigment under the skin or where the skin is pierced for the purpose of inserting an object. **[Bill Nos. 85-1967; 32-1978; 76-1997]**

RESIDENTIAL ZONE — A zone classified as R.C., D.R., R.O., R-O-A or R.A.E. "Zoned for residential purposes"; within a residential zone. **[Bill Nos. 98-1975; 170-1991; 149-2004]**

RESTAURANT, CARRY-OUT — An establishment whose principal business is the sale of ready-to-consume food and beverages to customers who order their food and beverages over the counter, by telephone or by fax machine and whose principal characteristic is that food and beverages are consumed off the premises. **[Bill No. 110-1993]**

RESTAURANT, FAST-FOOD — An establishment whose principal business is to sell ready-to-consume food and beverages in disposable containers and which is not a drive-in restaurant. A fast-food restaurant has some or all of the following characteristics:

Prepackaged frozen, chilled or sealed food and meals are cooked in advance for immediate sale.

Food and beverages are ordered over the counter or by motorists from within their vehicles.

Food and beverages are consumed on the premises of the restaurant or within a motor vehicle on or off the premises. **[Bill No. 110-1993]**

RESTAURANT, FAST-FOOD, DRIVE-THROUGH ONLY — A fast-food restaurant, as defined in Section 101, except that no customer seating is provided inside the restaurant. Food and beverages are ordered by motorists from a drive-through lane or from a walk-up window on the outside of the building or within a vestibule. Orders are primarily

FILE COPY

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

March 30, 2006

HAND DELIVERED
Timothy M. Kotroco, Director
Baltimore County Department of Permits
and Development Management
111 West Chesapeake Avenue, Suite 111
Towson, Maryland 21204

Stamp here and initial indicating date appeal was filed:

RECEIVED
MAR 3 0 2007
Per

RE: 9414 Belair Road
9414 Belair Road, LLC Petitioner
Case No. 07-285-A
Notice of Limited Appeal

Dear Mr. Kotroco:

On behalf of my client, 9414 Belair Road, LLC, Petitioner in the above-referenced Case, an appeal of those portions of the March 1, 2007 decision of the Deputy Zoning Commissioner for Baltimore County DENYING RELIEF to the Petitioner is hereby noted to the County Board of Appeals for Baltimore County. This appeal does not include the relief that was APPROVED by the Deputy Commissioner. My client is both aggrieved and a [corporate] person feeling aggrieved by the Commissioner's decision. This appeal is authorized by *Baltimore County Code* §32-3-401 and I have enclosed this firm's check in the amount of $400 as the requisite filing fee that representatives of your department advised would be charged. If the enclosed fee is incorrect, please contact my office immediately so that the correct amount can be submitted.

Upon the docketing of this appeal, please transmit all required papers, exhibits and other evidence to the Board of Appeals. Should you or your staff need additional information to enable the prompt processing of this appeal, as always, do not hesitate to contact me at your convenience.

Very truly yours,

Howard L. Alderman, Jr.

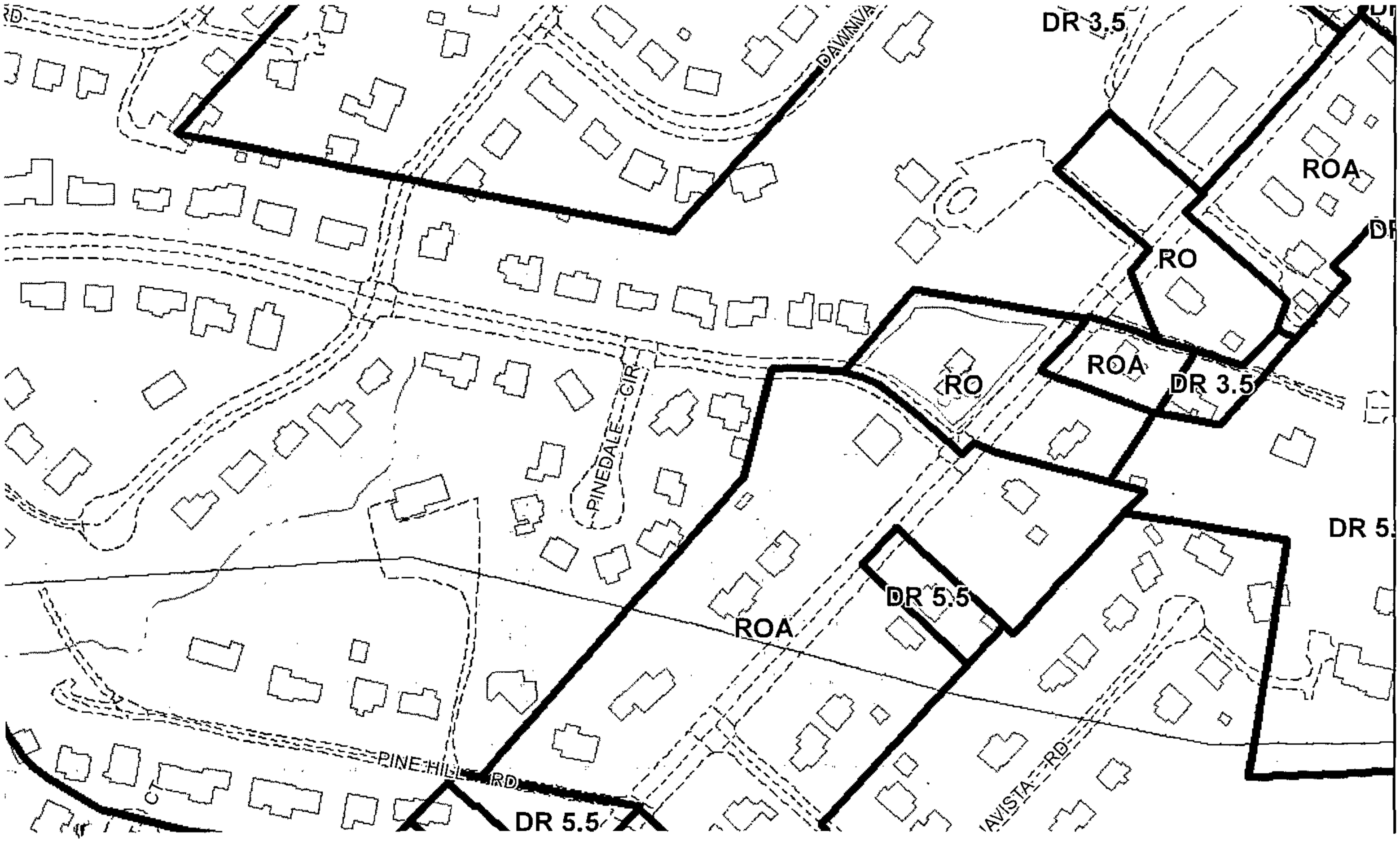
HLA/gk
Enclosure
c: 9414 Belair Road, LLC
County Board of Appeals

Case No.: 07-285-A 9414 BELAIR RD

Exhibit Sheet

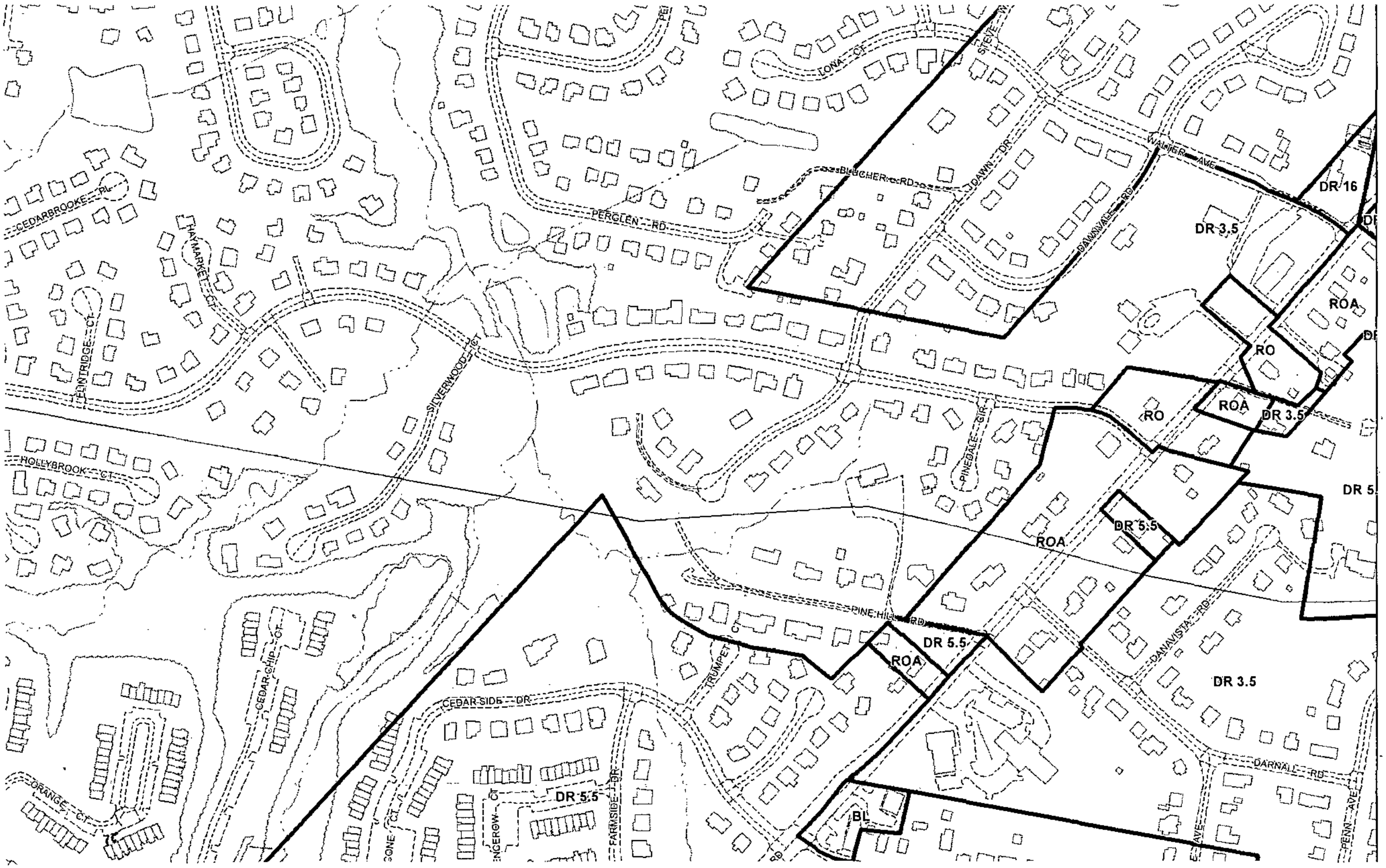
	Petitioner/Developer	Protestant
No. 1	✓ Plat to accomp	
No. 2	✓ Photo	
No. 3	✓ Order case no	
No. 4		
No. 5		
No. 6		
No. 7		
No. 8		
No. 9		
No. 10		
No. 11		
No. 12		

072-A-1
1" = 200 Ft.
Zone: RO.



07-285-A

072-A-1
1" = 400 FT
ZONE RO.



07-285-A

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PETITIONER'S EXHIBIT

2

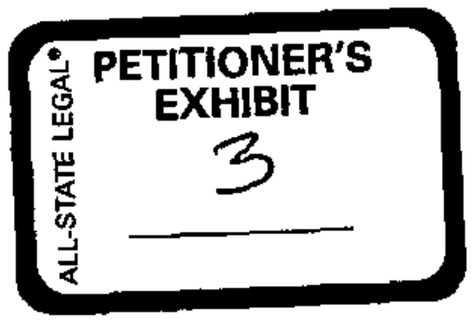
IN RE: PETITION FOR SPECIAL EXCEPTION N/W corner of Belair Road and Pinedale Drive 11th Election District 5th Councilmanic District (9414 Belair Road) Shannon Patrick Kennedy and David A. Smoley *Petitioner*	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-551-XA

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance for property located at 9414 Belair Road. The special exception and variance requests were filed by the legal owners of the subject property, Shannon P. Kennedy and David A. Smoley, by and through their attorney, Howard L. Alderman, Jr. The Petitioners are requesting special exception relief for permission to construct a Class B office building on the subject site. In addition, the Petitioners are requesting variance relief from Section 204.4.C.9.c.(1) of the Baltimore County Zoning Regulations, to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.853 acres of land, more or less, zoned R-O. The subject property is located on the northwest corner of the intersection of Belair Road and Pinedale Drive in Perry Hall. The property is currently improved with an existing single-family dwelling. The property owner wishes to tear down the old house and construct a 9,555 sq. ft. office building in its place. The details of the proposed development are more particularly shown on Petitioners' Exhibit No. 1,



the site plan submitted into evidence. In order to proceed with the construction of this office building the special exception request is necessary.

Appearing as an interested citizen in the matter was William Libercci, representing the Perry Hall Improvement Association. Mr. Libercci testified that his association entered into a restrictive covenant and improvements agreement dated the 7th day of October, 2000. That agreement was entered into evidence as Petitioners' Exhibit No. 2. Furthermore, Mr. Libercci testified that his association is requesting that the exit onto Belair Road from the subject property be a right-turn only exit. This will prevent individuals from attempting to make a left turn onto Belair Road, which can be a very dangerous maneuver.

Also appearing at the hearing and testifying in opposition to the Petitioners' request were Daryl Carpenter and George Mojzisek. These residents are very much concerned over the additional traffic which will be generated by this office building. Testimony indicated that Pinedale Drive is currently used by motorists as a shortcut from Belair Road to Seven Courts Drive. The use of the road as a cut through, coupled with the additional traffic generated by this office building causes these citizens concern over the amount of traffic at this intersection. Ms. Carpenter also testified that Pinedale Drive does not have curb and gutter over its entire length, which causes residents to have to utilize the paved portion of the roadway for pedestrian travel. Ms. Carpenter asks that the special exception not be granted to allow this office building to be constructed.

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After considering the testimony and evidence offered in support, as well as the testimony in opposition to the Petitioners' request, I find that the special exception should be granted to allow the building to be constructed on this property. Furthermore, the variance relief should also be granted to allow a reduction in the landscape buffer areas as shown on the site plan submitted into evidence.

THEREFORE IT IS ORDERED, this 29th day July, 2002, by this Deputy Zoning Commissioner, that the Special Exception to construct a Class B office building in an R-O zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the variance relief to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the relief granted herein is subject to the following conditions and restrictions:

1. The Petitioners shall be required to submit a landscape plan to Avery Harden, Landscape Architect for Baltimore County, for his full review and approval.

2. The Restrictive Covenant and Improvements Agreement entered into with the Perry Hall Improvement Association dated October 7, 2000, a copy of which was submitted into evidence as Petitioners' Exhibit No. 2 shall be incorporated into this Order and enforceable as if part of this Order.

3. The Petitioners shall be required to designate the access to Belair Road as a right-turn exit only. Motorists leaving the subject site shall not be permitted to make left turns on Belair Road from that access point.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

9419

SPECIFIC CHIROPRACTIC, P.C.

DR. ASHER A. RODRIGUEZ D.N.F.T.,® N.A.E.T

410-256-6717

RESTRICTIVE COVENANT AND IMPROVEMENTS AGREEMENT

THIS RESTRICTIVE COVENANTS AND IMPROVEMENTS AGREEMENT, is made this 7th day of ~~September~~ October, 2000 by and between PERRY HALL IMPROVEMENT ASSOCIATION, INC., a Maryland not for profit Corporation ("PHIA") and SHANNON PATRICK KENNEDY and DAVID A. SMOLEY, owners of three parcels of property improved by a building known as 9414 Belair Road in the 11th election district of Baltimore County, (hereinafter known as "the Owners").

RECITALS

A. The Owners own three parcels of land located in the fifth (5th) councilmanic district (11th Election District) of Baltimore County described in a deed recorded among the land records of Baltimore County in Liber 14147, folio 030, containing approximately .69± acres, as more particularly described in Exhibit A (attached hereto and incorporated herein by reference).

B. The approximate .69 acre tract (hereinafter referred to as the "subject parcel") is improved by a building known as 9414 Belair Road, and currently is zoned D.R. 5.5 pursuant to the adopted 1996 Zoning Maps of Baltimore County.

C. The Owners desire to obtain R.O. zoning of the subject parcel as defined in the Baltimore County Zoning Regulations pursuant to Baltimore County's 2000 Comprehensive Zoning Map Process.

D. PHIA as a community association is concerned about the use and the development of the .69± acre subject parcel.

NOW, THEREFORE, in consideration of the mutual premises and the conditions and covenants hereinafter stated and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. RESTRICTIVE COVENANTS. In the event rezoning of the subject parcel is granted in the 2000 Comprehensive Zoning Map Process to R.O. and a special exception is granted, the Owners agree to use the subject parcel either for the use of an office building or as a single family dwelling.

2. BUILDING AGREEMENT. In the event rezoning of the subject tract is granted in the 2000 Comprehensive Zoning Map Process to R.O., in addition to any other requirements existing at the time of development under applicable state, county, and federal law, the Owners agree to submit for review and comment to PHIA, development and landscape plans for said subject parcel including building elevations containing a description of exterior materials to be used in the construction of said building and landscaping. The parties hereto agree that a special exception may be necessary

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to construct a new or expanded building on the site. The Owners hereby agree that the following are building and architectural guidelines to be followed:

a. SITE DESIGN. The site will be designed to accommodate a two story office building of no more than 10,000 square feet with parking for no more than thirty-three vehicles.

b. ARCHITECTURE. The exterior of the building will be designed to appear residential in character. It will be compatible with the neighborhood.

c. LANDSCAPING. A system of landscaping will be implemented which will seek to maintain the larger tree specimens along the perimeter of the property to the extent practicable. A ten foot landscaped buffer will be placed along the property line of the adjacent residential property to the west, again with an intent to preserve the mature specimens along the buffer area. Parking for the building shall be screened from Belair Road and be located in the side and rear of the building. No parking will be provided directly in front of the building.

d. SIGN. In addition to a sign on the building as permitted by zoning, a freestanding double-faced sign with no interior lighting of no more than fifteen square feet in dimension per face shall be permitted along Belair Road. If a variance is necessary to permit this sign under existing zoning regulations, then the parties hereto agree to support this variance.

3. COMPREHENSIVE ZONING MAP CONDITIONS. PHIA agrees to support the rezoning of the .69 acre subject tract to R.O. pursuant to this Agreement and the covenants contained herein in the 2000 Comprehensive Zoning Map Process and to support the special exception for the office building. The obligations of the Owners shall not become effective and binding upon the Owners unless and until the R.O. designation has been placed upon the property at the completion of the Comprehensive Zoning Map Process snd the special exception has been granted.

4. BINDING EFFECT; DURATION OF AGREEMENT. Immediately upon satisfaction of the conditions precedent stated in the preceding Section 3, the Owners shall cause these covenants, restrictions, and conditions to be recorded among the Land Records of Baltimore County, Maryland. The Owners shall then deliver to PHIA a copy of the covenants as recorded, along with evidence of their recordation. The covenants shall run with and be binding upon the Land, and upon all present and future owners thereof, and shall inure to the benefit of each of the parties respectively, and their successors and assigns for a period of twenty (20) years from the date of this Agreement.

Notwithstanding the preceding paragraph, this Agreement shall terminate and be of no further force or effect as to any portion of the property that is rezoned, in proceedings subsequent to the 2000 Comprehensive Zoning Map Process, to zoning other than R.O..

5. ENFORCEMENT. If any party to this Agreement, or any party's successor is required to institute legal action to enforce the terms of this Agreement, and is successful thereafter (whether by judgment or by settlement) in obtaining enforcement of the Agreement, that party or successor shall be entitled to recover reasonable attorneys' fees and other reasonable costs of the action from the person or entity against whom enforcement is obtained. However, as a prerequisite to the recovery of fees and costs under this paragraph, the person or entity seeking enforcement shall serve the alleged violator of the Agreement with written notice of the violation, and only if the alleged violator has failed to remedy or to make substantial progress toward remedying the violation within sixty (60) days after receipt of this notice may legal action be instituted.

6. CAPTIONS. All captions in this Agreement are for convenience only and do not in any way define, limit, amplify or describe the scope of the provisions hereof and shall not be utilized to interpret the provisions of this Agreement.

7. NO THIRD PARTY BENEFICIARIES. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give to any other person or entity any right, remedy or claim under this Agreement or by reason hereof.

8. GOVERNING LAWS. This Agreement shall be construed and governed in accordance with the laws of the State of Maryland applicable to contracts made and to be performed in the State of Maryland, without giving effect to the principles of conflicts of laws effective therein.

9. WAIVER. PHIA agrees to accept fully and without contest of any kind or nature the validity and legality of this rezoning of the D.R. 5.5 parcel to R.O. obtained by The Owners, and hereby waive the right to institute any future action, suit or legal proceeding involving this rezoning, excepting only any action, suit or other proceeding instituted for breach of this Agreement.

10. AMENDMENT. This Agreement may be amended or supplemented only by an instrument in writing duly executed by or on behalf of the Owners, or their successors and assigns, and PHIA, or its successors and assigns, and recorded among the Land Records of Baltimore County, Maryland.

11. BENEFIT TO PARTIES, SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the Owners and PHIA have executed this Agreement on the day and year first above written.

PERRY HALL IMPROVEMENT ASSOCIATION, INC.

ATTEST:

By:

_____ (SEAL)
, President 10/7/00

_____ (SEAL)
SHANNON PATRICK KENNEDY

_____ (SEAL)
DAVID A. SMOLEY

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 7th day of OCTOBER, in the year Two Thousand, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared David Marks, President of the Perry Hall Improvement Association, Inc., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing restrictive covenant and improvement agreement to be the act of the corporation and that he is empowered and authorized to sign same on its behalf, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Charles Smarle

Notary Public 10/7/00

My commission expires: November 1, 2001

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, in the year TWO THOUSAND, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared SHANNON PATRICK KENNEDY AND DAVID A. SMOLEY known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and they acknowledged the foregoing restrictive covenant and improvement agreement to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Karen Smoley

Notary Public

My commission expires: December 23, 2003

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned attorney, admitted to practice in the State of Maryland.

JOHN B. GONTRUM

AFTER RECORDING RETURN TO:

John B. Gontrum, Esq.
Romadka, Gontrum & McLaughlin, P.A.
814 Eastern Blvd.
Baltimore, Maryland 21221

EXHIBIT A

BEGINNING FOR THE FIRST at a point in the Belair Road and in the first or south 48 degrees 25 minutes west 965 foot 8 inch line of that tract of land which by Deed dated August 15, 1938 and recorded among the Land Records of Baltimore County in Liber CWB,Jr. No. 1038, folio 274, etc., was conveyed by Frederick J. Schlosstein and wife to Charles H. Koffenberger, said point of beginning being distant 726.93 feet north 48 degrees 25 minutes east from a crossmark heretofore cut in the bed of said Belair Road, at the end of the said first line (as shown on a plat dated May 18, 1948 and prepared by H. S. Morfoot, County Surveyor of Baltimore County from a survey for Charles H. Koffenberger) thence leaving the said first line, and the bed of said Belair Road, north 41 degrees 28 minutes west 23.75 feet to an iron pipe now planted and to the northwesternmost right-of-way line of said Belair Road as now constructed; thence running with and binding on the northeasternmost side of a road or right-of-way (50 feet wide) to be kept open for use in common with others entitled thereto, north 41 degrees 28 minutes west 150.00 feet to an iron pipe now planted; thence leaving the said northeasternmost side of said road or right-of-way and running for lines of division the two following courses and distance, viz: north 48 degrees 32 minutes east 100.00 feet to an iron pipe now planted, and south 41 degrees 28 minutes east 150.00 feet to an iron pipe now planted on the afore-described northwesternmost right-of-way line of Belair Road as now constructed, thence south 41 degrees 28 minutes east 23.55 feet to intersect the aforesaid first line; thence running with and binding on part of said first line south 48 degrees 25 minutes west 100.00 feet to the place of beginning. Containing 0.344 acres of land, more or less; the improvements thereon being known as 9414 Belair Road.

BEGINNING FOR THE SECOND AND THIRD PARCELS, AND BEING KNOWN AND DESIGNATED as Lot 1 in Block A and the triangular parcel of land bounding on the West side of Lot 1 in Block A, having dimensions of which are 122.69 feet by 141.24 feet by 50.0 feet, all as shown on the Plat entitled, "Pinedale", which Plat is recorded among the Land Records of Baltimore County in Plat Book GLB No. 18, folio 82.

SAVING AND EXCEPTING THEREFROM so much thereof as by Deed dated May 30, 1996 and recorded among the Land Records of Baltimore County in Liber SM No. 11614, folio 434, was granted and conveyed by Antoinete Brady Beall to the State of Maryland to the use of the State Highway Administration of the Department of Transportation.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

WITNESS the hand and seal of said Grantor.

WITNESS:

(SEAL)
DONNA R. GOSNELL,
Personal Representative of the
Estate of Antoinette F. Beall

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

I HEREBY CERTIFY, that on this 4TH day of November, 1999, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Donna R. Gosnell, Personal Representative of the Estate of Antoinette F. Beall, known (or satisfactorily proven) to me to be the person whose name is subscribed to the within Deed and acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same, and further acknowledged that the consideration as stated above is true and correct.

AS WITNESS my hand and Notarial Seal.

Richard E. Lattanzi, Notary Public

RICHARD E. LATTANZI NOTARY PUBLIC BALTO CO., MD

My Commission Expires: August 1, 2001

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland attorney.

Richard E. Lattanzi, Attorney

RECORD AND RETURN TO:

Shannon Patrick Kennedy/David A. Smoley
8846 Belair Road
Baltimore, MD 21236
File #12513

APPEAL

Petition for Variance
9414 Belair Road
Northwest side of Belair Road and northeast side of Pinedale Drive
11th Election District – 5th Councilmanic District
Legal Owner(s): 9414 Belair Road LLC
S. Patrick Kennedy, Member

Case No.: 07-285-A

✓ Petition for Variance (December 20, 2006)

✓ Zoning Description of Property

✓ Notice of Zoning Hearing (January 11, 2007)

✓ Certification of Publication (February 1, 2007)

✓ Certificate of Posting (January 31, 2007) by William D. Gulick, Jr.

✓ Entry of Appearance by People's Counsel (January 8, 2007)

✓ Petitioner(s) Sign-In Sheet – 1 Sheet

- Protestant(s) Sign-In Sheet – None

- Citizen(s) Sign-In Sheet – None

✓ Zoning Advisory Committee Comments

File rec'd 4/20/07

Petitioners' Exhibit
1. ✓ Plat to accompany Petition for Zoning Variance
2. ✓ Photograph of site
3. ✓ Findings of Fact and Conclusions of Law 02-551-XA
4. ✓ Photographs of signage near to the site
5. ✓ Restrictive Covenant and Improvements Agreement, 10/7/00
6. ✓ Site Development Plan and Plat to accompant Special Exception and Variance Petitions for 9414 Belair road, 6/4/02

Protestants' Exhibits: None

Miscellaneous (Not Marked as Exhibit)
1. 200 scale map
2. 400 scale map
3. ✓ Findings of Fact and Conclusions of Law 02-551-XA
4. ✓ Faxed copy of pg 1-17 of the BCZR from Mr. Alderman to Mr. Murphy

✓ Deputy Zoning Commissioner's Order (DENIED in accordance w/order – March 1, 2007)

✓ Notice of Appeal received on March 30, 2007 from Howard L. Alderman, Jr.

✓ FILE REC'D 4/20/07 IN THE BOARD OF APPEALS

c: People's Counsel of Baltimore County, MS #2010
Zoning Commissioner/Deputy Zoning Commissioner
Timothy Kotroco, Director of PDM
Howard L. Alderman, Jr., Esquire Levin & Gann, PA 502 Washington Avenue, 8th Floor Towson 21204
Geoffrey C. Schultz, PLS McKee & Associates, Inc. 5 Shawan Road, Suite 1 Hunt Valley 21030-1373
Patrick Kennedy 2613 Gunpowder Farms Road Fallston 21047
Cathy Werner 2613 Gunpowder Farms Road Fallston 21047
"Auggie" Olga Chesser 9110 Deviation Road Baltimore 21236
Dennis Eckard 39 Bangert Avenue Perry Hall 21128
Missy Wolinski ~~814 Creek Road Baltimore 21236~~ 6737 mt. Vista Rd 21087

date sent April 19, 2007, amf

CASE NO. 07-285-A PETITIONER'S EXHIBITS

1. Site Plan
2. Picture of sign and street indicating no left turn.
3. BZC's Order dated 7/29/02
4. Restriction Covenant and Agreement.
5. Aerial photo of the property.
6. Picture of Church of Christ sign.
7. Picture of Perry Hall Library sign.
8. Picture of Spirit Christmas sign.
9. Picture of 1st Preference sign.
10. Picture of Century 21 sign
11. Picture of Belair Rd. showing signs on the left.
12. Picture of RE/MAX location at 8846 Belair Rd.

PETITIONER'S
EXHIBIT
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ALL-STATE LEGAL®

IN RE: PETITION FOR SPECIAL EXCEPTION N/W corner of Belair Road and Pinedale Drive 11th Election District 5th Councilmanic District (9414 Belair Road) Shannon Patrick Kennedy and David A. Smoley *Petitioner*	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-551-XA

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance for property located at 9414 Belair Road. The special exception and variance requests were filed by the legal owners of the subject property, Shannon P. Kennedy and David A. Smoley, by and through their attorney, Howard L. Alderman, Jr. The Petitioners are requesting special exception relief for permission to construct a Class B office building on the subject site. In addition, the Petitioners are requesting variance relief from Section 204.4.C.9.c.(1) of the Baltimore County Zoning Regulations, to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.853 acres of land, more or less, zoned R-O. The subject property is located on the northwest corner of the intersection of Belair Road and Pinedale Drive in Perry Hall. The property is currently improved with an existing single-family dwelling. The property owner wishes to tear down the old house and construct a 9,555 sq. ft. office building in its place. The details of the proposed development are more particularly shown on Petitioners' Exhibit No. 1,

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the site plan submitted into evidence. In order to proceed with the construction of this office building the special exception request is necessary.

Appearing as an interested citizen in the matter was William Libercci, representing the Perry Hall Improvement Association. Mr. Libercci testified that his association entered into a restrictive covenant and improvements agreement dated the 7th day of October, 2000. That agreement was entered into evidence as Petitioners' Exhibit No. 2. Furthermore, Mr. Libercci testified that his association is requesting that the exit onto Belair Road from the subject property be a right-turn only exit. This will prevent individuals from attempting to make a left turn onto Belair Road, which can be a very dangerous maneuver.

Also appearing at the hearing and testifying in opposition to the Petitioners' request were Daryl Carpenter and George Mojzisek. These residents are very much concerned over the additional traffic which will be generated by this office building. Testimony indicated that Pinedale Drive is currently used by motorists as a shortcut from Belair Road to Seven Courts Drive. The use of the road as a cut through, coupled with the additional traffic generated by this office building causes these citizens concern over the amount of traffic at this intersection. Ms. Carpenter also testified that Pinedale Drive does not have curb and gutter over its entire length, which causes residents to have to utilize the paved portion of the roadway for pedestrian travel. Ms. Carpenter asks that the special exception not be granted to allow this office building to be constructed.

In addition to the special exception request to construct this building, the Petitioners are also requesting variance relief to allow a 10 ft. wide landscape buffer to the rear of the property, adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer on the side of the building adjacent to a predominantly

residentially zoned property in lieu of the minimum required 20 ft. Testimony and evidence offered by the Petitioner demonstrated that the areas set aside on the site plan submitted into evidence for landscaping are sufficient to provide an adequate screen to the surrounding properties. The 5 ft. wide buffer on the north side of the property abuts the Masonic Temple. The Masonic Temple property is zoned residential, however its use is institutional in nature. The property to the west, owned by John and Betty Pitcock, has a sufficient amount of screening. Accordingly, the variance shall be granted.

After considering the testimony and evidence offered in support, as well as the testimony in opposition to the Petitioners' request, I find that the special exception should be granted to allow the building to be constructed on this property. Furthermore, the variance relief should also be granted to allow a reduction in the landscape buffer areas as shown on the site plan submitted into evidence.

THEREFORE IT IS ORDERED, this 29th day July, 2002, by this Deputy Zoning Commissioner, that the Special Exception to construct a Class B office building in an R-O zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the variance relief to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the relief granted herein is subject to the following conditions and restrictions:

1. The Petitioners shall be required to submit a landscape plan to Avery Harden, Landscape Architect for Baltimore County, for his full review and approval.

2. The Restrictive Covenant and Improvements Agreement entered into with the Perry Hall Improvement Association dated October 7, 2000, a copy of which was submitted into evidence as Petitioners' Exhibit No. 2 shall be incorporated into this Order and enforceable as if part of this Order.

3. The Petitioners shall be required to designate the access to Belair Road as a right-turn exit only. Motorists leaving the subject site shall not be permitted to make left turns on Belair Road from that access point.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

RESTRICTIVE COVENANT AND IMPROVEMENTS AGREEMENT

THIS RESTRICTIVE COVENANTS AND IMPROVEMENTS AGREEMENT, is made this 7th day of ~~September~~ October, 2000 by and between PERRY HALL IMPROVEMENT ASSOCIATION, INC., a Maryland not for profit Corporation ("PHIA") and SHANNON PATRICK KENNEDY and DAVID A. SMOLEY, owners of three parcels of property improved by a building known as 9414 Belair Road in the 11th election district of Baltimore County, (hereinafter known as "the Owners").

RECITALS

A. The Owners own three parcels of land located in the fifth (5th) councilmanic district (11th Election District) of Baltimore County described in a deed recorded among the land records of Baltimore County in Liber 14147, folio 030, containing approximately .69± acres, as more particularly described in Exhibit A (attached hereto and incorporated herein by reference).

B. The approximate .69 acre tract (hereinafter referred to as the "subject parcel") is improved by a building known as 9414 Belair Road, and currently is zoned D.R. 5.5 pursuant to the adopted 1996 Zoning Maps of Baltimore County.

C. The Owners desire to obtain R.O. zoning of the subject parcel as defined in the Baltimore County Zoning Regulations pursuant to Baltimore County's 2000 Comprehensive Zoning Map Process.

D. PHIA as a community association is concerned about the use and the development of the .69± acre subject parcel.

NOW, THEREFORE, in consideration of the mutual premises and the conditions and covenants hereinafter stated and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. RESTRICTIVE COVENANTS. In the event rezoning of the subject parcel is granted in the 2000 Comprehensive Zoning Map Process to R.O. and a special exception is granted, the Owners agree to use the subject parcel either for the use of an office building or as a single family dwelling.

2. BUILDING AGREEMENT. In the event rezoning of the subject tract is granted in the 2000 Comprehensive Zoning Map Process to R.O., in addition to any other requirements existing at the time of development under applicable state, county, and federal law, the Owners agree to submit for review and comment to PHIA, development and landscape plans for said subject parcel including building elevations containing a description of exterior materials to be used in the construction of said building and landscaping. The parties hereto agree that a special exception may be necessary

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to construct a new or expanded building on the site. The Owners hereby agree that the following are building and architectural guidelines to be followed:

a. SITE DESIGN. The site will be designed to accommodate a two story office building of no more than 10,000 square feet with parking for no more than thirty-three vehicles.

b. ARCHITECTURE. The exterior of the building will be designed to appear residential in character. It will be compatible with the neighborhood.

c. LANDSCAPING. A system of landscaping will be implemented which will seek to maintain the larger tree specimens along the perimeter of the property to the extent practicable. A ten foot landscaped buffer will be placed along the property line of the adjacent residential property to the west, again with an intent to preserve the mature specimens along the buffer area. Parking for the building shall be screened from Belair Road and be located in the side and rear of the building. No parking will be provided directly in front of the building.

d. SIGN. In addition to a sign on the building as permitted by zoning, a freestanding double-faced sign with no interior lighting of no more than fifteen square feet in dimension per face shall be permitted along Belair Road. If a variance is necessary to permit this sign under existing zoning regulations, then the parties hereto agree to support this variance.

3. COMPREHENSIVE ZONING MAP CONDITIONS. PHIA agrees to support the rezoning of the .69 acre subject tract to R.O. pursuant to this Agreement and the covenants contained herein in the 2000 Comprehensive Zoning Map Process and to support the special exception for the office building. The obligations of the Owners shall not become effective and binding upon the Owners unless and until the R.O. designation has been placed upon the property at the completion of the Comprehensive Zoning Map Process snd the special exception has been granted.

4. BINDING EFFECT; DURATION OF AGREEMENT. Immediately upon satisfaction of the conditions precedent stated in the preceding Section 3, the Owners shall cause these covenants, restrictions, and conditions to be recorded among the Land Records of Baltimore County, Maryland. The Owners shall then deliver to PHIA a copy of the covenants as recorded, along with evidence of their recordation. The covenants shall run with and be binding upon the Land, and upon all present and future owners thereof, and shall inure to the benefit of each of the parties respectively, and their successors and assigns for a period of twenty (20) years from the date of this Agreement.

Notwithstanding the preceding paragraph, this Agreement shall terminate and be of no further force or effect as to any portion of the property that is rezoned, in proceedings subsequent to the 2000 Comprehensive Zoning Map Process, to zoning other than R.O..

5. ENFORCEMENT. If any party to this Agreement, or any party's successor is required to institute legal action to enforce the terms of this Agreement, and is successful thereafter (whether by judgment or by settlement) in obtaining enforcement of the Agreement, that party or successor shall be entitled to recover reasonable attorneys' fees and other reasonable costs of the action from the person or entity against whom enforcement is obtained. However, as a prerequisite to the recovery of fees and costs under this paragraph, the person or entity seeking enforcement shall serve the alleged violator of the Agreement with written notice of the violation, and only if the alleged violator has failed to remedy or to make substantial progress toward remedying the violation within sixty (60) days after receipt of this notice may legal action be instituted.

6. CAPTIONS. All captions in this Agreement are for convenience only and do not in any way define, limit, amplify or describe the scope of the provisions hereof and shall not be utilized to interpret the provisions of this Agreement.

7. NO THIRD PARTY BENEFICIARIES. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give to any other person or entity any right, remedy or claim under this Agreement or by reason hereof.

8. GOVERNING LAWS. This Agreement shall be construed and governed in accordance with the laws of the State of Maryland applicable to contracts made and to be performed in the State of Maryland, without giving effect to the principles of conflicts of laws effective therein.

9. WAIVER. PHIA agrees to accept fully and without contest of any kind or nature the validity and legality of this rezoning of the D.R. 5.5 parcel to R.O. obtained by The Owners, and hereby waive the right to institute any future action, suit or legal proceeding involving this rezoning, excepting only any action, suit or other proceeding instituted for breach of this Agreement.

10. AMENDMENT. This Agreement may be amended or supplemented only by an instrument in writing duly executed by or on behalf of the Owners, or their successors and assigns, and PHIA, or its successors and assigns, and recorded among the Land Records of Baltimore County, Maryland.

11. BENEFIT TO PARTIES, SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the Owners and PHIA have executed this Agreement on the day and year first above written.

PERRY HALL IMPROVEMENT ASSOCIATION, INC.

ATTEST:

By:

_____ (SEAL)
, President 10/7/00

_____ (SEAL)
SHANNON PATRICK KENNEDY

_____ (SEAL)
DAVID A. SMOLEY

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 7th day of OCTOBER, in the year Two Thousand, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared David Marks, President of the Perry Hall Improvement Association, Inc., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing restrictive covenant and improvement agreement to be the act of the corporation and that he is empowered and authorized to sign same on its behalf, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Charles Emanuel

Notary Public 10/7/00

My commission expires: November 1, 2001

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, in the year TWO THOUSAND, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared SHANNON PATRICK KENNEDY AND DAVID A. SMOLEY known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and they acknowledged the foregoing restrictive covenant and improvement agreement to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Karen Smoley

Notary Public

My commission expires: December 23, 2003

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned attorney, admitted to practice in the State of Maryland.

JOHN B. GONTRUM

AFTER RECORDING RETURN TO:

John B. Gontrum, Esq.
Romadka, Gontrum & McLaughlin, P.A.
814 Eastern Blvd.
Baltimore, Maryland 21221

EXHIBIT A

BEGINNING FOR THE FIRST at a point in the Belair Road and in the first or south 48 degrees 25 minutes west 965 foot 8 inch line of that tract of land which by Deed dated August 15, 1938 and recorded among the Land Records of Baltimore County in Liber CWB,Jr. No. 1038, folio 274, etc., was conveyed by Frederick J. Schlosstein and wife to Charles H. Koffenberger, said point of beginning being distant 726.93 feet north 48 degrees 25 minutes east from a crossmark heretofore cut in the bed of said Belair Road, at the end of the said first line (as shown on a plat dated May 18, 1948 and prepared by H. S. Morfoot, County Surveyor of Baltimore County from a survey for Charles H. Koffenberger) thence leaving the said first line, and the bed of said Belair Road, north 41 degrees 28 minutes west 23.75 feet to an iron pipe now planted and to the northwesternmost right-of-way line of said Belair Road as now constructed; thence running with and binding on the northeasternmost side of a road or right-of-way (50 feet wide) to be kept open for use in common with others entitled thereto, north 41 degrees 28 minutes west 150.00 feet to an iron pipe now planted; thence leaving the said northeasternmost side of said road or right-of-way and running for lines of division the two following courses and distance, viz: north 48 degrees 32 minutes east 100.00 feet to an iron pipe now planted, and south 41 degrees 28 minutes east 150.00 feet to an iron pipe now planted on the afore-described northwesternmost right-of-way line of Belair Road as now constructed, thence south 41 degrees 28 minutes east 23.55 feet to intersect the aforesaid first line; thence running with and binding on part of said first line south 48 degrees 25 minutes west 100.00 feet to the place of beginning. Containing 0.344 acres of land, more or less; the improvements thereon being known as 9414 Belair Road.

BEGINNING FOR THE SECOND AND THIRD PARCELS, AND BEING KNOWN AND DESIGNATED as Lot 1 in Block A and the triangular parcel of land bounding on the West side of Lot 1 in Block A, having dimensions of which are 122.69 feet by 141.24 feet by 50.0 feet, all as shown on the Plat entitled, "Pinedale", which Plat is recorded among the Land Records of Baltimore County in Plat Book GLB No. 18, folio 82.

SAVING AND EXCEPTING THEREFROM so much thereof as by Deed dated May 30, 1996 and recorded among the Land Records of Baltimore County in Liber SM No. 11614, folio 434, was granted and conveyed by Antoinete Brady Beall to the State of Maryland to the use of the State Highway Administration of the Department of Transportation.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

WITNESS the hand and seal of said Grantor.

WITNESS:

(SEAL)
DONNA R. GOSNELL,
Personal Representative of the
Estate of Antoinette F. Beall

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

I HEREBY CERTIFY, that on this 4TH day of November, 1999, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Donna R. Gosnell, Personal Representative of the Estate of Antoinette F. Beall, known (or satisfactorily proven) to me to be the person whose name is subscribed to the within Deed and acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same, and further acknowledged that the consideration as stated above is true and correct.

AS WITNESS my hand and Notarial Seal.

Richard E. Lattanzi, Notary Public

RICHARD E. LATTANZI NOTARY PUBLIC BALTO CO., MD

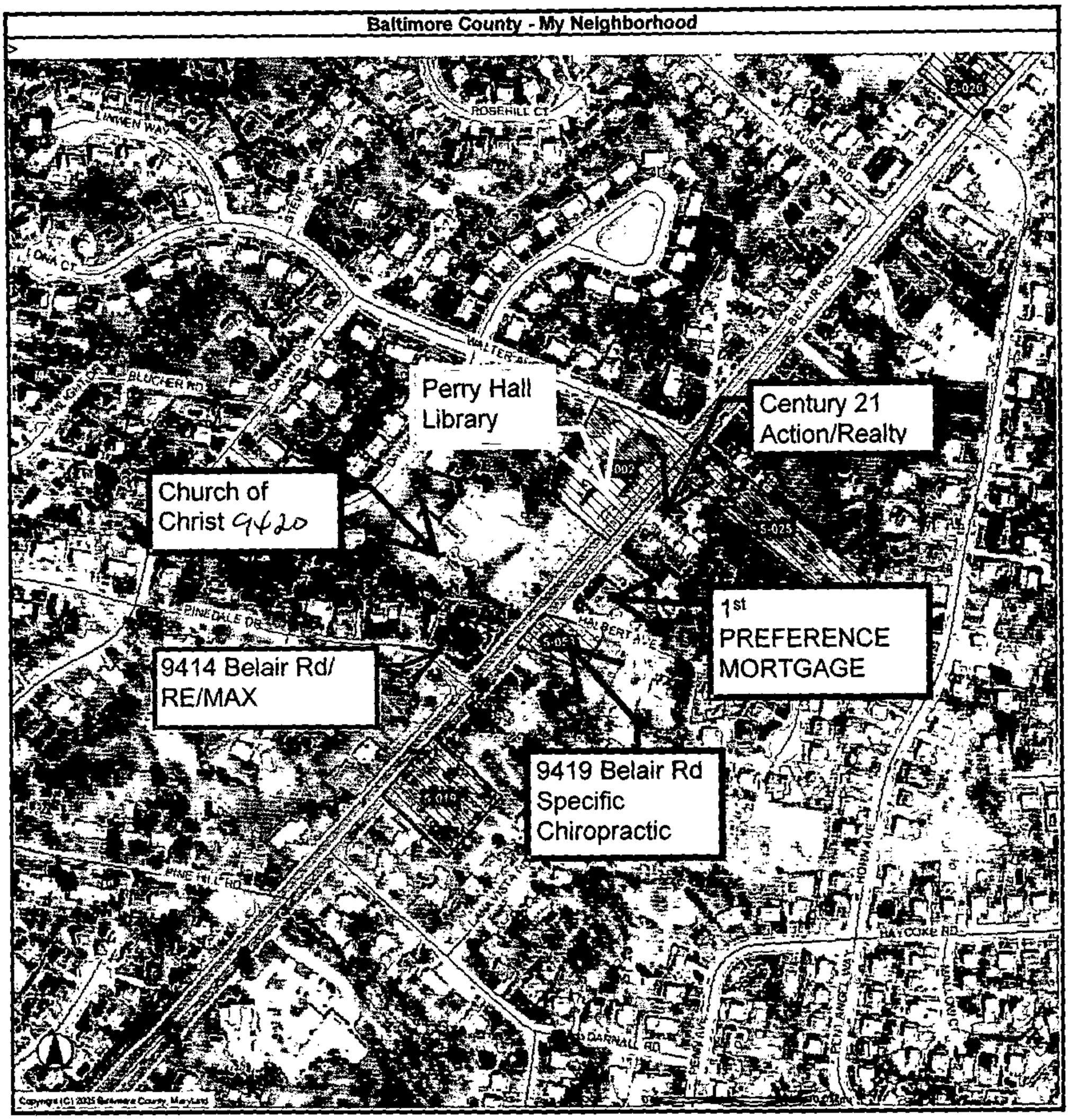
My Commission Expires: August 1, 2001

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland attorney.

Richard E. Lattanzi, Attorney

RECORD AND RETURN TO:

Shannon Patrick Kennedy/David A. Smoley
8846 Belair Road
Baltimore, MD 21236
File #12513



PETITIONER'S EXHIBIT

5

PET. EXH
NO. 6

Church Of Christ

9420 Belair Road

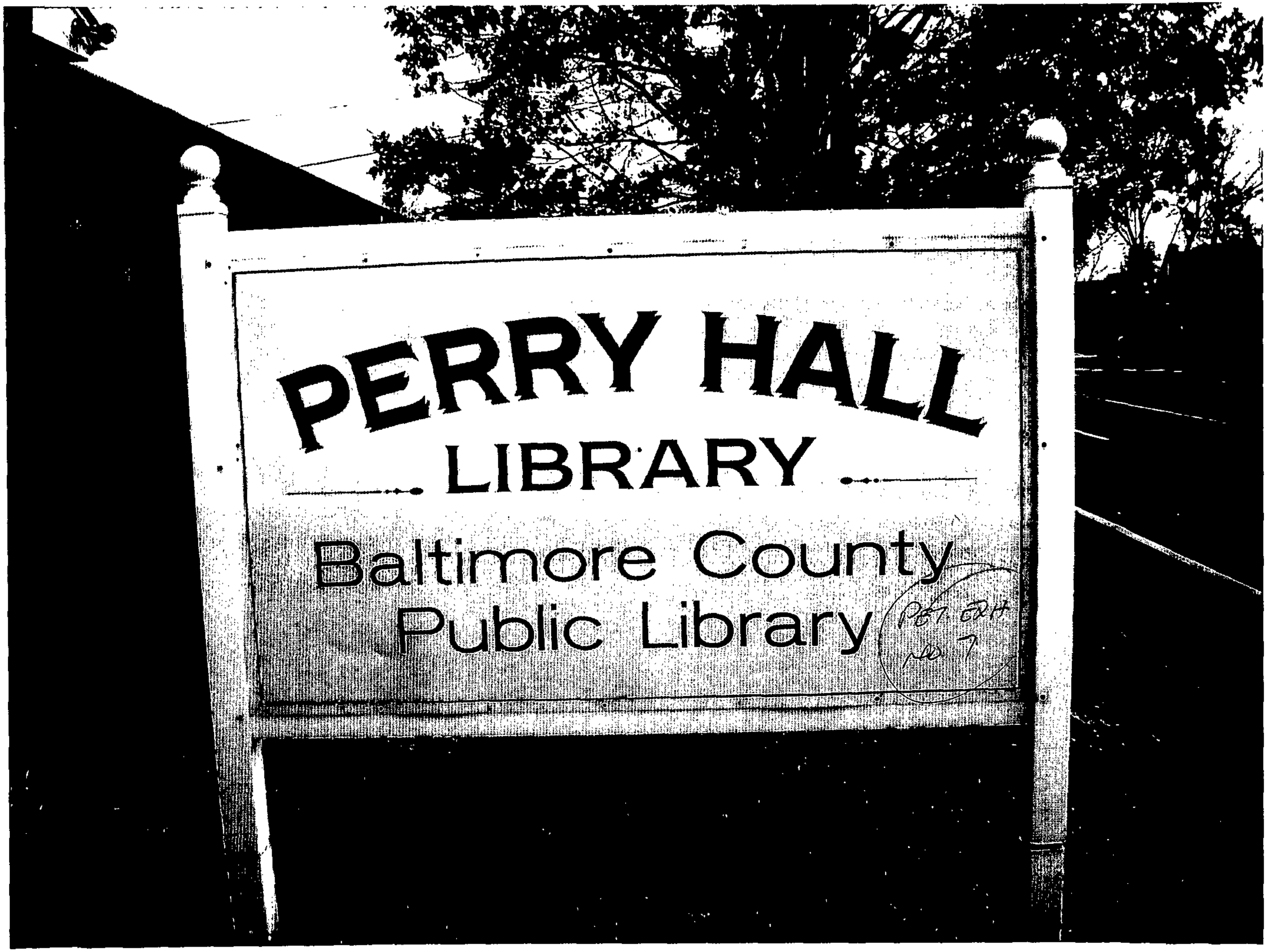
Sunday School 9:45am
Morning Worship 10:00am
Evening Worship 6:30pm
Nursery & Classes 6:30pm
Wednesday Bible Classes 7:00pm
Friday Bible Classes 7:00pm

The Bible is Right

Minister: Kevin Bethea

And...East Baltimore Bible Institute
FREE Bible correspondence courses

410-248-9080


PERRY HALL
LIBRARY
Baltimore County
Public Library

9419

SPECIFIC
CHIROPRACTIC, P.C.

DR. ASHER RODRIGUEZ D.N.F.T.,® N.A.E.T

410-256-6717

PET. NO 8

TMS CLEANING

MORTGAGE CORPORATION
529-7300
BELAIR ROAD
Pet. Exh
No. 9

PET. EXH. NO. 10

PETIEX
NO.11

PET. EXH No. 12

7-2-6
#7

County Board of Appeals of Baltimore County

OLD COURTHOUSE, ROOM 49
400 WASHINGTON AVENUE
TOWSON, MARYLAND 21204
410-887-3180
FAX: 410-887-3182

Hearing Room – Room 48
Old Courthouse, 400 Washington Avenue

December 3, 2007

NOTICE OF ASSIGNMENT

CASE #: 07-285-A

IN THE MATTER OF: 9414 BELAIR ROAD, LLC –LO; S. PATRICK KENNEDY, MEMBER 9414 Belair Road 11th E; 5th C

3/01/07 –D.Z.C.'s decision in which requested relief was DENIED.

ASSIGNED FOR: THURSDAY, FEBRUARY 7, 2008 at 10:00 a.m.

NOTICE: This appeal is an evidentiary hearing; therefore, parties should consider the advisability of retaining an attorney.

Please refer to the Board's Rules of Practice & Procedure, Appendix B, Baltimore County Code.

IMPORTANT: No postponements will be granted without sufficient reasons; said requests must be in writing and in compliance with Rule 2(b) of the Board's Rules. No postponements will be granted within 15 days of scheduled hearing date unless in full compliance with Rule 2(c).

If you have a disability requiring special accommodations, please contact this office at least one week prior to hearing date.

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : Howard L. Alderman, Jr., Esquire
Appellant /Petitioner : Patrick Kennedy, Member / 9414 Belair Road LLC

Geoffrey C. Schultz, PLS /McKee & Associates, Inc.

Cathy Werner
"Auggie" Olga Chesser
Dennis Eckard
Missy Wolinski

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Printed with Soybean Ink
on Recycled Paper

1

Case# 02-285-A Kennedy, Member

Howard Alderman overview

Subject property is now Residential was R.O. but rezoned in last CZP changed
Sign legislation
Enterprise Design

Error of law by Murphy

Proffer by Howard
expert in Balto. Co. Zoning

Pet. Ex #1 plat to accompany sign variance

The sign would be in front of a 2 story office building

Pet. Ex #2 picture of no left turn
Pet. Ex #3 Case# 02-551-XA

Non-illuminated free standing sign

Pet. Ex #4 Restrictive Covenant + Lease Agreement
Pet. Ex #5 Key sheet of other signs
Pet. Ex #6 Sign Church of Christ
Pet. Ex #7 Perry Hall Library sign
Pet. Ex #8 Chiro sign
Pet. Ex #9 Mortgage sign
Pet. Ex #10 Century 21
Pet. Ex #11 signs on road

450.4 + 450.7A is the code that need to be a variance from

2

Case #OD-285-A Kennedy Member

Alderman proffer
48 MPH on Belair Rd

Murphy said they needed a Use Variance because the sign would face R.O. properties

The balloon is a permanent part of the sign

Kathy Werner

Pet. Ex #12 old office w/sign

Timing

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
#2

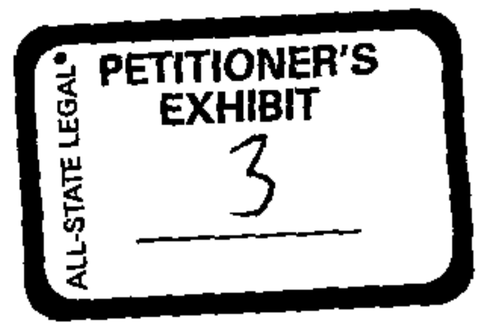
IN RE: PETITION FOR SPECIAL EXCEPTION N/W corner of Belair Road and Pinedale Drive 11th Election District 5th Councilmanic District (9414 Belair Road) Shannon Patrick Kennedy and David A. Smoley *Petitioner*	* * * * * *	BEFORE THE DEPUTY ZONING COMMISSIONER OF BALTIMORE COUNTY CASE NO. 02-551-XA

* * * * * * * * * * * *

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before this Deputy Zoning Commissioner as a Petition for Special Exception and Variance for property located at 9414 Belair Road. The special exception and variance requests were filed by the legal owners of the subject property, Shannon P. Kennedy and David A. Smoley, by and through their attorney, Howard L. Alderman, Jr. The Petitioners are requesting special exception relief for permission to construct a Class B office building on the subject site. In addition, the Petitioners are requesting variance relief from Section 204.4.C.9.c.(1) of the Baltimore County Zoning Regulations, to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft.

Testimony and evidence indicated that the property, which is the subject of this request, consists of 0.853 acres of land, more or less, zoned R-O. The subject property is located on the northwest corner of the intersection of Belair Road and Pinedale Drive in Perry Hall. The property is currently improved with an existing single-family dwelling. The property owner wishes to tear down the old house and construct a 9,555 sq. ft. office building in its place. The details of the proposed development are more particularly shown on Petitioners' Exhibit No. 1,



the site plan submitted into evidence. In order to proceed with the construction of this office building the special exception request is necessary.

Appearing as an interested citizen in the matter was William Libercci, representing the Perry Hall Improvement Association. Mr. Libercci testified that his association entered into a restrictive covenant and improvements agreement dated the 7th day of October, 2000. That agreement was entered into evidence as Petitioners' Exhibit No. 2. Furthermore, Mr. Libercci testified that his association is requesting that the exit onto Belair Road from the subject property be a right-turn only exit. This will prevent individuals from attempting to make a left turn onto Belair Road, which can be a very dangerous maneuver.

Also appearing at the hearing and testifying in opposition to the Petitioners' request were Daryl Carpenter and George Mojzisek. These residents are very much concerned over the additional traffic which will be generated by this office building. Testimony indicated that Pinedale Drive is currently used by motorists as a shortcut from Belair Road to Seven Courts Drive. The use of the road as a cut through, coupled with the additional traffic generated by this office building causes these citizens concern over the amount of traffic at this intersection. Ms. Carpenter also testified that Pinedale Drive does not have curb and gutter over its entire length, which causes residents to have to utilize the paved portion of the roadway for pedestrian travel. Ms. Carpenter asks that the special exception not be granted to allow this office building to be constructed.

In addition to the special exception request to construct this building, the Petitioners are also requesting variance relief to allow a 10 ft. wide landscape buffer to the rear of the property, adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer on the side of the building adjacent to a predominantly

residentially zoned property in lieu of the minimum required 20 ft. Testimony and evidence offered by the Petitioner demonstrated that the areas set aside on the site plan submitted into evidence for landscaping are sufficient to provide an adequate screen to the surrounding properties. The 5 ft. wide buffer on the north side of the property abuts the Masonic Temple. The Masonic Temple property is zoned residential, however its use is institutional in nature. The property to the west, owned by John and Betty Pitcock, has a sufficient amount of screening. Accordingly, the variance shall be granted.

After considering the testimony and evidence offered in support, as well as the testimony in opposition to the Petitioners' request, I find that the special exception should be granted to allow the building to be constructed on this property. Furthermore, the variance relief should also be granted to allow a reduction in the landscape buffer areas as shown on the site plan submitted into evidence.

THEREFORE IT IS ORDERED, this 29th day July, 2002, by this Deputy Zoning Commissioner, that the Special Exception to construct a Class B office building in an R-O zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the variance relief to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the relief granted herein is subject to the following conditions and restrictions:

1. The Petitioners shall be required to submit a landscape plan to Avery Harden, Landscape Architect for Baltimore County, for his full review and approval.

2. The Restrictive Covenant and Improvements Agreement entered into with the Perry Hall Improvement Association dated October 7, 2000, a copy of which was submitted into evidence as Petitioners' Exhibit No. 2 shall be incorporated into this Order and enforceable as if part of this Order.

3. The Petitioners shall be required to designate the access to Belair Road as a right-turn exit only. Motorists leaving the subject site shall not be permitted to make left turns on Belair Road from that access point.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

Timothy Kotroco

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

TMK:raj

RESTRICTIVE COVENANT AND IMPROVEMENTS AGREEMENT

THIS RESTRICTIVE COVENANTS AND IMPROVEMENTS AGREEMENT, is made this 7th day of ~~September~~ October, 2000 by and between PERRY HALL IMPROVEMENT ASSOCIATION, INC., a Maryland not for profit Corporation ("PHIA") and SHANNON PATRICK KENNEDY and DAVID A. SMOLEY, owners of three parcels of property improved by a building known as 9414 Belair Road in the 11th election district of Baltimore County, (hereinafter known as "the Owners").

RECITALS

A. The Owners own three parcels of land located in the fifth (5th) councilmanic district (11th Election District) of Baltimore County described in a deed recorded among the land records of Baltimore County in Liber 14147, folio 030, containing approximately .69± acres, as more particularly described in Exhibit A (attached hereto and incorporated herein by reference).

B. The approximate .69 acre tract (hereinafter referred to as the "subject parcel") is improved by a building known as 9414 Belair Road, and currently is zoned D.R. 5.5 pursuant to the adopted 1996 Zoning Maps of Baltimore County.

C. The Owners desire to obtain R.O. zoning of the subject parcel as defined in the Baltimore County Zoning Regulations pursuant to Baltimore County's 2000 Comprehensive Zoning Map Process.

D. PHIA as a community association is concerned about the use and the development of the .69± acre subject parcel.

NOW, THEREFORE, in consideration of the mutual premises and the conditions and covenants hereinafter stated and of other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. RESTRICTIVE COVENANTS. In the event rezoning of the subject parcel is granted in the 2000 Comprehensive Zoning Map Process to R.O. and a special exception is granted, the Owners agree to use the subject parcel either for the use of an office building or as a single family dwelling.

2. BUILDING AGREEMENT. In the event rezoning of the subject tract is granted in the 2000 Comprehensive Zoning Map Process to R.O., in addition to any other requirements existing at the time of development under applicable state, county, and federal law, the Owners agree to submit for review and comment to PHIA, development and landscape plans for said subject parcel including building elevations containing a description of exterior materials to be used in the construction of said building and landscaping. The parties hereto agree that a special exception may be necessary

ALL-STATE LEGAL® PETITIONER'S EXHIBIT 4

to construct a new or expanded building on the site. The Owners hereby agree that the following are building and architectural guidelines to be followed:

a. SITE DESIGN. The site will be designed to accommodate a two story office building of no more than 10,000 square feet with parking for no more than thirty-three vehicles.

b. ARCHITECTURE. The exterior of the building will be designed to appear residential in character. It will be compatible with the neighborhood.

c. LANDSCAPING. A system of landscaping will be implemented which will seek to maintain the larger tree specimens along the perimeter of the property to the extent practicable. A ten foot landscaped buffer will be placed along the property line of the adjacent residential property to the west, again with an intent to preserve the mature specimens along the buffer area. Parking for the building shall be screened from Belair Road and be located in the side and rear of the building. No parking will be provided directly in front of the building.

d. SIGN. In addition to a sign on the building as permitted by zoning, a freestanding double-faced sign with no interior lighting of no more than fifteen square feet in dimension per face shall be permitted along Belair Road. If a variance is necessary to permit this sign under existing zoning regulations, then the parties hereto agree to support this variance.

3. COMPREHENSIVE ZONING MAP CONDITIONS. PHIA agrees to support the rezoning of the .69 acre subject tract to R.O. pursuant to this Agreement and the covenants contained herein in the 2000 Comprehensive Zoning Map Process and to support the special exception for the office building. The obligations of the Owners shall not become effective and binding upon the Owners unless and until the R.O. designation has been placed upon the property at the completion of the Comprehensive Zoning Map Process snd the special exception has been granted.

4. BINDING EFFECT; DURATION OF AGREEMENT. Immediately upon satisfaction of the conditions precedent stated in the preceding Section 3, the Owners shall cause these covenants, restrictions, and conditions to be recorded among the Land Records of Baltimore County, Maryland. The Owners shall then deliver to PHIA a copy of the covenants as recorded, along with evidence of their recordation. The covenants shall run with and be binding upon the Land, and upon all present and future owners thereof, and shall inure to the benefit of each of the parties respectively, and their successors and assigns for a period of twenty (20) years from the date of this Agreement.

Notwithstanding the preceding paragraph, this Agreement shall terminate and be of no further force or effect as to any portion of the property that is rezoned, in proceedings subsequent to the 2000 Comprehensive Zoning Map Process, to zoning other than R.O..

5. ENFORCEMENT. If any party to this Agreement, or any party's successor is required to institute legal action to enforce the terms of this Agreement, and is successful thereafter (whether by judgment or by settlement) in obtaining enforcement of the Agreement, that party or successor shall be entitled to recover reasonable attorneys' fees and other reasonable costs of the action from the person or entity against whom enforcement is obtained. However, as a prerequisite to the recovery of fees and costs under this paragraph, the person or entity seeking enforcement shall serve the alleged violator of the Agreement with written notice of the violation, and only if the alleged violator has failed to remedy or to make substantial progress toward remedying the violation within sixty (60) days after receipt of this notice may legal action be instituted.

6. CAPTIONS. All captions in this Agreement are for convenience only and do not in any way define, limit, amplify or describe the scope of the provisions hereof and shall not be utilized to interpret the provisions of this Agreement.

7. NO THIRD PARTY BENEFICIARIES. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give to any other person or entity any right, remedy or claim under this Agreement or by reason hereof.

8. GOVERNING LAWS. This Agreement shall be construed and governed in accordance with the laws of the State of Maryland applicable to contracts made and to be performed in the State of Maryland, without giving effect to the principles of conflicts of laws effective therein.

9. WAIVER. PHIA agrees to accept fully and without contest of any kind or nature the validity and legality of this rezoning of the D.R. 5.5 parcel to R.O. obtained by The Owners, and hereby waive the right to institute any future action, suit or legal proceeding involving this rezoning, excepting only any action, suit or other proceeding instituted for breach of this Agreement.

10. AMENDMENT. This Agreement may be amended or supplemented only by an instrument in writing duly executed by or on behalf of the Owners, or their successors and assigns, and PHIA, or its successors and assigns, and recorded among the Land Records of Baltimore County, Maryland.

11. BENEFIT TO PARTIES, SUCCESSORS AND ASSIGNS. This Agreement shall inure to the benefit of the parties hereto, their successors and assigns.

IN WITNESS WHEREOF, the Owners and PHIA have executed this Agreement on the day and year first above written.

PERRY HALL IMPROVEMENT ASSOCIATION, INC.

ATTEST:

By:

_____ (SEAL)
, President 10/7/00

_____ (SEAL)
SHANNON PATRICK KENNEDY

_____ (SEAL)
DAVID A. SMOLEY

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this 7th day of OCTOBER, in the year Two Thousand, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared David Marks, President of the Perry Hall Improvement Association, Inc., known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged the foregoing restrictive covenant and improvement agreement to be the act of the corporation and that he is empowered and authorized to sign same on its behalf, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Charles Emanuel
Notary Public 10/7/00

My commission expires: November 1, 2001

STATE OF MARYLAND, BALTIMORE COUNTY, TO WIT:

I HEREBY CERTIFY, that on this _____ day of _____, in the year TWO THOUSAND, before me, the subscriber, a Notary Public of the State of the aforesaid, personally appeared SHANNON PATRICK KENNEDY AND DAVID A. SMOLEY known to me (or satisfactorily proven) to be the persons whose names are subscribed to the within instrument, and they acknowledged the foregoing restrictive covenant and improvement agreement to be their act, and in my presence signed and sealed the same.

IN WITNESS WHEREOF, I hereunto set my hand and Notarial Seal.

Karen Smoley
Notary Public

My commission expires: December 23, 2003

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned attorney, admitted to practice in the State of Maryland.

JOHN B. GONTRUM

AFTER RECORDING RETURN TO:

John B. Gontrum, Esq.
Romadka, Gontrum & McLaughlin, P.A.
814 Eastern Blvd.
Baltimore, Maryland 21221

EXHIBIT A

BEGINNING FOR THE FIRST at a point in the Belair Road and in the first or south 48 degrees 25 minutes west 965 foot 8 inch line of that tract of land which by Deed dated August 15, 1938 and recorded among the Land Records of Baltimore County in Liber CWB,Jr. No. 1038, folio 274, etc., was conveyed by Frederick J. Schlosstein and wife to Charles H. Koffenberger, said point of beginning being distant 726.93 feet north 48 degrees 25 minutes east from a crossmark heretofore cut in the bed of said Belair Road, at the end of the said first line (as shown on a plat dated May 18, 1948 and prepared by H. S. Morfoot, County Surveyor of Baltimore County from a survey for Charles H. Koffenberger) thence leaving the said first line, and the bed of said Belair Road, north 41 degrees 28 minutes west 23.75 feet to an iron pipe now planted and to the northwesternmost right-of-way line of said Belair Road as now constructed; thence running with and binding on the northeasternmost side of a road or right-of-way (50 feet wide) to be kept open for use in common with others entitled thereto, north 41 degrees 28 minutes west 150.00 feet to an iron pipe now planted; thence leaving the said northeasternmost side of said road or right-of-way and running for lines of division the two following courses and distance, viz: north 48 degrees 32 minutes east 100.00 feet to an iron pipe now planted, and south 41 degrees 28 minutes east 150.00 feet to an iron pipe now planted on the afore-described northwesternmost right-of-way line of Belair Road as now constructed, thence south 41 degrees 28 minutes east 23.55 feet to intersect the aforesaid first line; thence running with and binding on part of said first line south 48 degrees 25 minutes west 100.00 feet to the place of beginning. Containing 0.344 acres of land, more or less; the improvements thereon being known as 9414 Belair Road.

BEGINNING FOR THE SECOND AND THIRD PARCELS, AND BEING KNOWN AND DESIGNATED as Lot 1 in Block A and the triangular parcel of land bounding on the West side of Lot 1 in Block A, having dimensions of which are 122.69 feet by 141.24 feet by 50.0 feet, all as shown on the Plat entitled, "Pinedale", which Plat is recorded among the Land Records of Baltimore County in Plat Book GLB No. 18, folio 82.

SAVING AND EXCEPTING THEREFROM so much thereof as by Deed dated May 30, 1996 and recorded among the Land Records of Baltimore County in Liber SM No. 11614, folio 434, was granted and conveyed by Antoinete Brady Beall to the State of Maryland to the use of the State Highway Administration of the Department of Transportation.

Whenever used, the singular number shall include the plural, the plural the singular, and the use of any gender shall be applicable to all genders.

WITNESS the hand and seal of said Grantor.

WITNESS:

(SEAL)
DONNA R. GOSNELL,
Personal Representative of the
Estate of Antoinette F. Beall

STATE OF MARYLAND, BALTIMORE COUNTY TO WIT:

I HEREBY CERTIFY, that on this 4TH day of November, 1999, before me, the subscriber, a Notary Public of the State aforesaid, personally appeared Donna R. Gosnell, Personal Representative of the Estate of Antoinette F. Beall, known (or satisfactorily proven) to me to be the person whose name is subscribed to the within Deed and acknowledged the foregoing Deed to be her act, and in my presence signed and sealed the same, and further acknowledged that the consideration as stated above is true and correct.

AS WITNESS my hand and Notarial Seal.

Richard E. Lattanzi, Notary Public

RICHARD E. LATTANZI NOTARY PUBLIC BALTO CO., MD

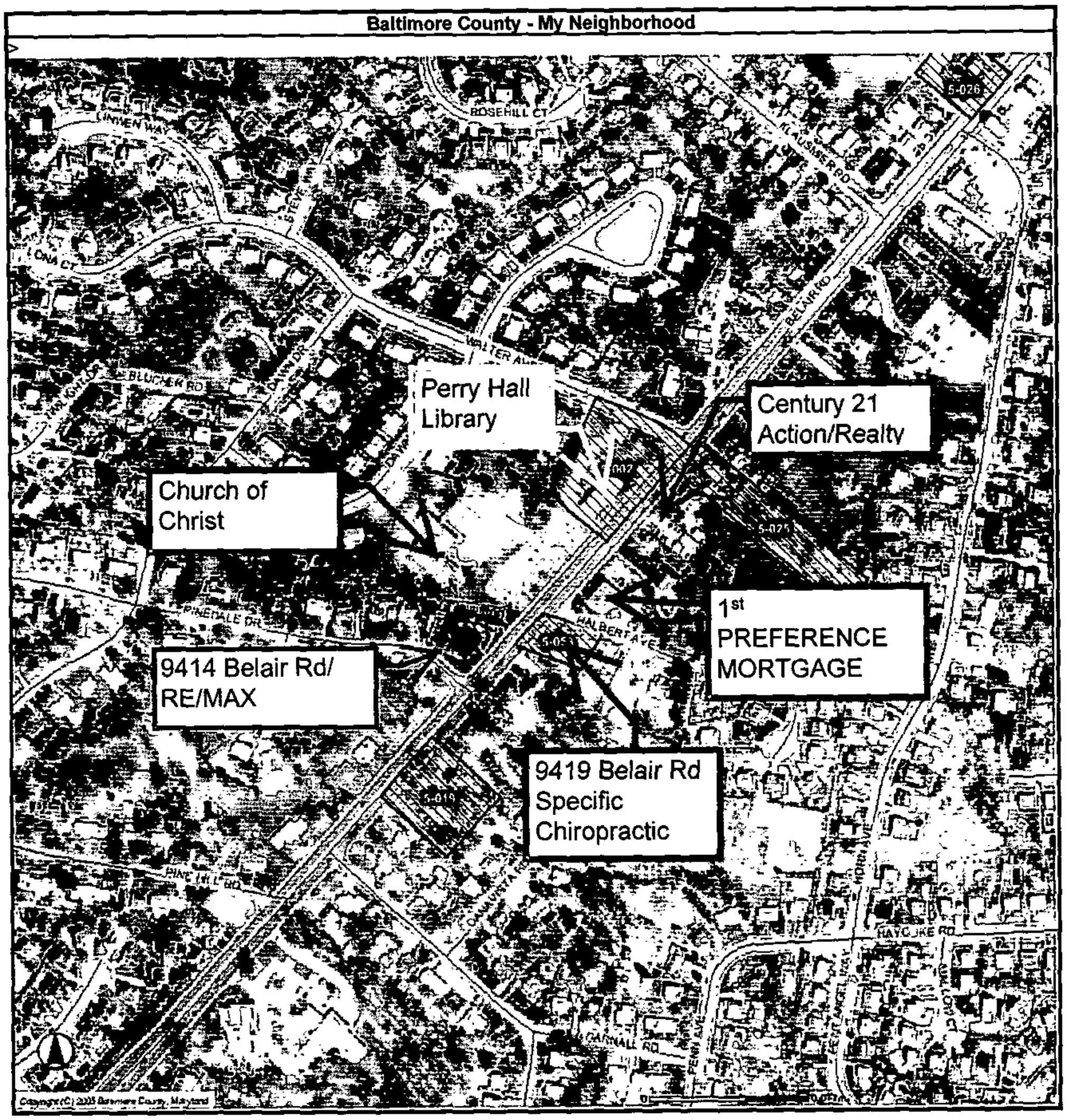
My Commission Expires: August 1, 2001

This is to certify that the within instrument has been prepared by or under the supervision of the undersigned Maryland attorney.

Richard E. Lattanzi, Attorney

RECORD AND RETURN TO:

Shannon Patrick Kennedy/David A. Smoley
8846 Belair Road
Baltimore, MD 21236
File #12513



PETITIONER'S EXHIBIT

5

Pet Ex #6

5 1/2"

Of Ch

9420 Belair Road

6am
00am
30pm
00pm
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00am

The B
is Rig

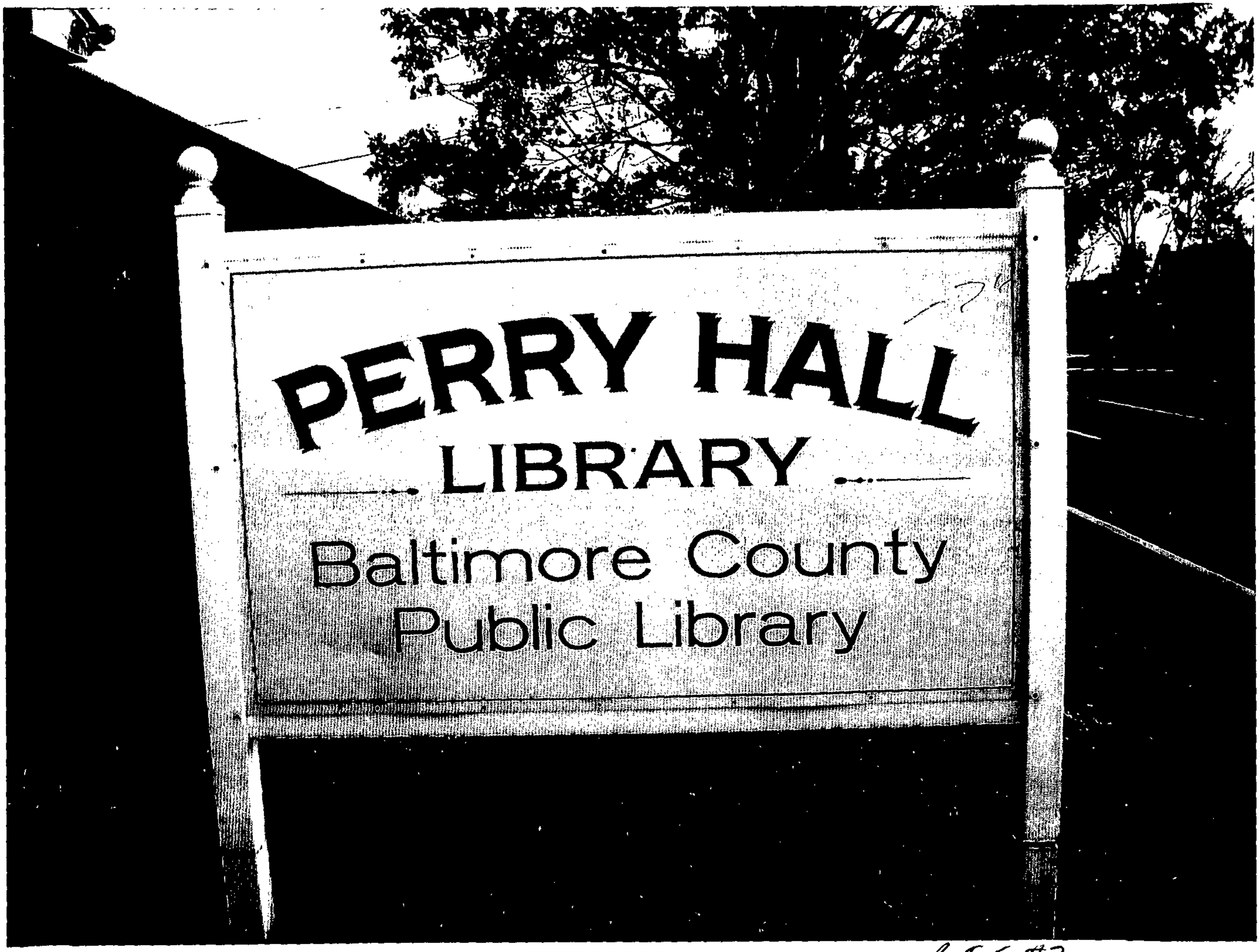
Minister: Kevin Bet

Classes
Classes
Bible Classes
Bible Classes

And...East Baltimore Bible Institute

FREE Bible correspondence courses

410-248-9080



Pet. Ex #7

949
SPECIFIC
CHIROPRACTIC, P.C.
DR. ASHER RODRIGUEZ D.N.F.T.,® N.A.E.T
410-256-6717
TMS CLEANING

PET. Ex # 8

Pet. Ex #9

Pet. Ex # 10

Pet. Ex #11

Pet. Ex #12

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 4, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

9414 BELAIR ROAD, LLC – LEGAL OWNER
Case No-07-285-A

Having heard this matter on 2/07/08, public deliberation has been scheduled for the following date /time:

DATE AND TIME : THURSDAY, MARCH 20, 2008 at 9:00 a.m.

LOCATION : Hearing Room #2, Second Floor, Jefferson Building

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : Howard L. Alderman, Jr., Esquire
Appellant /Petitioner : Patrick Kennedy, Member / 9414 Belair Road LLC

Geoffrey C. Schultz, PLS /McKee & Associates, Inc.

Cathy Werner
"Auggie" Olga Chesser
Dennis Eckard
Missy Wolinski

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

Copy to: 7-2-6

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

DIRECT DIAL
410-321-4640

LAW OFFICES
LEVIN & GANN
A PROFESSIONAL ASSOCIATION
NOTTINGHAM CENTRE
502 WASHINGTON AVENUE
8th Floor
TOWSON, MARYLAND 21204
410-321-0600
TELEFAX 410-296-2801

ELLIS LEVIN (1893-1960)
CALMAN A. LEVIN (1930-2003)

February 13, 2008

HAND DELIVERED
Edward W. Crizer, Jr., Chairman
County Board of Appeals for Baltimore County
400 Washington Avenue, Suite 48
Towson, Maryland 21204

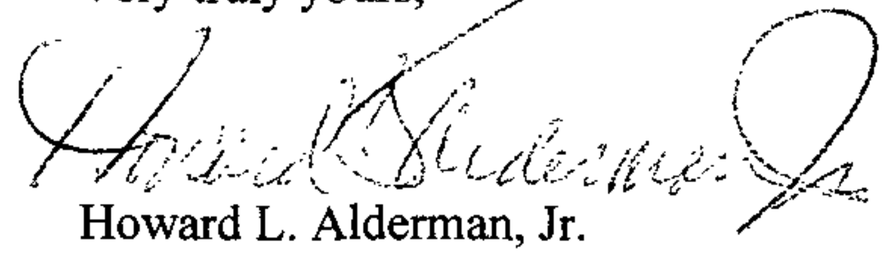
RE: 9114 Belair Road
Case No. 07-285-A

Dear Mr. Crizer:

At the conclusion of the Board's hearing in the above-referenced matter, the Board requested that I provide an outline of the legal points and authorities supporting the Petitioner's case **principally for approval of an enterprise sign** and, alternatively, approval of larger letters and required symbols on a directory sign. I have not repeated the Petitioner's uncontradicted and substantial evidence supporting both the principal and alternative variance relief. I have, however, in addition to the outline included a copy of the relevant potions of the *Baltimore County Zoning Regulations* referenced therein, highlighted for the Board's convenience.

I have enclosed an original and three (3) copies as normally requested by the Board for any submission. Should you or any member of the Board desire additional information in this regard, please do not hesitate to contact me.

Very truly yours,



Howard L. Alderman, Jr.

HLA/gk
Enclosures (4)
c (w/1 encl.): 9414 Belair Road, LLC
Geoffrey C. Schultz, RPLS

FEB 13 2008

HOWARD L. ALDERMAN, JR.
halderman@LevinGann.com

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410-321-4640

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A PROFESSIONAL ASSOCIATION
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c (w/1 encl.): 9414 Belair Road, LLC
Geoffrey C. Schultz, RPLS

FEB 13 2008

9414 BELAIR ROAD, LLC
Case No. 07-285-A

I. Outline of legal authorities supporting Petitioner's Case:

A. Residential Office (**RO**)

1. Subject property is zoned RO

2. In 2002, RO zone was **not** classified as a residential zone

3. Special Exception for Class B office building was approved on subject property in **2002** – *See* Petitioner's Exhibit No. 3 - approval of special exception (Class B Building) and variance in Case No. 02-551-XA

4. In 2004, after Petitioner's building was under construction, County Council Bill added RO zone to the definition of Residential Zones [*See*, BCZR § 101 RESIDENTIAL ZONE -- A zone classified as R.C., D.R., **R.O.**, R-O-A or R.A.E. . . . . [Bill Nos. 98-1975; 170-1991; **149-2004**]

B. Signs in RO Zones:

1. Pursuant to BCZR § 204.3C.1, in RO zones, "Signs are permitted, subject to Section 450"

2. BCZR § 450.4 sets forth the "Table of Sign Regulations" for all zones

3. **Directory Signs**, pursuant to enumerated paragraph 4 of the Table of Sign Regulations, either wall mounted or **freestanding** are permitted in all zones, subject to the additional regulations of BCZR § 450.7.A

a. a "Directory Sign" means "an accessory sign displaying the identity and location of the nonresidential occupants of a building or development" (Table of Sign Regulations, ¶ 4, Column I)

b. BCZR § 450.7.A.1 limits the lettering on a directory sign as follows:

(1) the names and locations of occupants may not be larger than 2 inches high; and

(2) all other lettering is limited to 3 inches in height

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BOARD OF APPEALS

4. **Enterprise Signs**, pursuant to enumerated paragraph 5(m), **Column IX - Additional Limitations** of the Table of Sign Regulations, may be erected in the **RO** zone, limited to 15 square feet per face and 6 feet in height, if located on a principal arterial adjoining and facing non-residentially zoned property

   a. an "Enterprise Sign" means "an accessory sign which displays the **identity** and which may otherwise advertise the products or services associated with the individual organization" (Table of Sign Regulations, ¶ 5, Column I)

   b. BCZR § 450.3 defines "**Identity**" as the "**name** of a person, **organization** or place **displayed on a sign**, including the **street address** or the **trademark, logotype**, initials or **other symbol customarily associated with the name.**"

C. Petitioner requests approval of an **enterprise sign** along Belair Road

   1. Belair Road is a principal arterial

   2. Sign face is limited to 15 square feet and 6 feet in height, **both** by the sign regulations (*see*, paragraph 4. above) **and by the *Restrictive Covenant and Improvements Agreement*** (Petitioner's Exhibit No. 4), between the Petitioner and the Perry Hall Improvement Association ("PHIA")

   3. The subject property adjoins and faces RO zones, which at the time of the Agreement with PHIA was **not a residential zone**

   4. At the time of the Agreement between the Petitioner and the PHIA, the parties contemplated an enterprise sign on the subject property and limited it to the height and face area allowed as of right (6 feet high, 15 square feet per face in area)

   5. Subsequent to the Agreement, RO zones were classified as residential, thus prohibiting enterprise zones unless a variance is obtained for <u>location</u>

   6. Approval of variance relief for the <u>location</u> of an enterprise sign facing or adjoining a residential 'zone' is just like obtaining a variance for the <u>location</u> of a garage or pool in the front yard – it is an area variance, <u>not a use variance</u>

   7. The 'uses' listed in BCZR § 450 (Sign Regulations) are the uses associated with a particular sign's permissibility; *See*, 450.4C. A variance to permit the <u>location</u> of an enterprise sign facing or adjoining other RO (residential) zoned areas is <u>not</u> a use variance

8. The requested **enterprise sign** is depicted in the lower left-hand corner of Petitioner's Exhibit No. 1.

D. Alternatively, Petitioner requests approval of a variance from the size limitations on letters/symbols on a **directory sign** displaying the identity and location of occupants of the building on the subject property, as depicted in the lower left-hand corner of Petitioner's Exhibit No. 1. The variance request is for lettering and symbols of 4" and 6" in height in lieu of the 3" permitted

E. Compatibility and Justification

1. Although compatibility is not a prerequisite, Petitioner has shown that its proposed sign is more than compatible with other signs in the immediate area and proposes lettering smaller than used by most other signs

2. The size of the lettering and symbols proposed is necessary for **safe and efficient identification of the occupants of the existing building** due to the speed and volume of traffic on Belair Road, just like other signs in the area

3. The proposed sign is compatible with the signs in the area and the Agreement reached between the Petitioner and the PHIA

A. Situated in an integrated park setting on, within, contiguous or adjacent to and affiliated with an institution of higher education as defined in Section 10-101 of the Education Article of the Annotated Code of Maryland;

B. Located in an O.T. Zone; and

C. Used for:

1. Computer and data processing services;

2. Laboratories;

3. The manufacture, assembly, service or repair of any product listed in Section 209.3.A.7;

4. Offices;

5. Research institutes;

6. Warehouses in combination with and physically attached to any of the above uses, if the warehouse accounts for no more than 30% of the total gross floor area;

7. Television studio;

8. Supporting infrastructure for any of the above uses; or

9. Any combination of such uses.

RESIDENTIAL ART SALON — A portion of a dwelling unit used for the exhibition and sale of original works of art. For the purposes of these regulations, an "original work of art" shall include a numbered reproduction from a series of no more than 50, which reproduction is individually signed by the artist. A "residential art salon" does not include a photographic studio, a tattoo or body piercing establishment, or any place where an indelible mark or figure is placed on a person by needle insertion of pigment under the skin or where the skin is pierced for the purpose of inserting an object. **[Bill Nos. 85-1967; 32-1978; 76-1997]**

§ 101

RESIDENTIAL ZONE — A zone classified as R.C., D.R., R.O., R-O-A or R.A.E. "Zoned for residential purposes"; within a residential zone. **[Bill Nos. 98-1975; 170-1991; 149-2004]**

RESTAURANT, CARRY-OUT — An establishment whose principal business is the sale of ready-to-consume food and beverages to customers who order their food and beverages over the counter, by telephone or by fax machine and whose principal characteristic is that food and beverages are consumed off the premises. **[Bill No. 110-1993]**

RESTAURANT, FAST-FOOD — An establishment whose principal business is to sell ready-to-consume food and beverages in disposable containers and which is not a drive-in restaurant. A fast-food restaurant has some or all of the following characteristics:

Prepackaged frozen, chilled or sealed food and meals are cooked in advance for immediate sale.

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BOARD OF APPEALS

204.3 C. Signs and off-street parking requirements.

1. Signs are permitted, subject to Section 450. **[Bill No. 89-1997]**

2. Off-street parking spaces shall be provided in accordance with Section 409. To the extent possible, parking shall be located in the side or rear yards of the lot. All required parking spaces shall be provided on the same lot as the structure or use to which they are accessory.

204.4 Bulk regulations of R-O Zones. Uses permitted as of right or by special exception are governed by the following bulk regulations: **[Bill No. 186-1994]**

A. Uses permitted under Sections 204.3.A.1 and 204.3.B.1 and new structures accessory to Class A office buildings are governed by the bulk regulations of D.R.5.5 Zones.

B. Class A office buildings themselves, which by definition may not be enlarged, are not subject to bulk regulations, nor are unenlarged structures accessory to the original building.

C. Class B office buildings.

1. Maximum floor area ratio: 0.33.

2. Maximum height of structure: 35 feet.

3. Minimum front yard setback: 25 feet or the average of the setbacks of the adjacent structures, whichever is less.

4. Minimum side yard setbacks: 10 feet, except if the adjacent property is predominantly residentially zoned, residentially used, or is adjacent to a residential street, in which case the setback shall be 20 feet.

5. Minimum rear yard setback: 30 feet.

6. Amenity open space: 7% of the interior of the parking lot, not including setback and buffer area requirements, shall be pervious land area in association with plantings.

7. Maximum lot size: one acre, except that if located on a principal arterial and if there is adjacent nonresidentially used or nonresidentially zoned frontage, the maximum lot size may be two acres.

8. The office building shall be the only principal building on the lot on which it is situated and shall not be attached to another building.

9. Landscape requirements. In addition to the requirements set forth in the Baltimore County Landscape Manual:

a. All parking and dumpster areas which abut a residential zone shall be screened by an opaque fence, wall or berm in association with plantings.

b. The minimum screening height shall be five feet.

STREET ADDRESS — The numerals or letters designating the address assigned to a premises. A "street address" may also include the name of the street on which a premises is located.

TEMPORARY SIGN — A sign constructed of cloth, fabric or other lightweight material, with or without a structural frame, that is intended to display a message for a limited period of time. A "portable sign" shall not be considered a "temporary sign" for the purpose of these regulations.

UNIMPROVED LOT — A lot recognized on a recorded plat but not yet conveyed to a third party. **[Bill No. 97-1998]**

VISIBLE — Refers to a sign that is capable of being seen, legibly or not, without visual aid, by a person with normal eyesight.

450.4 Table of Sign Regulations. The following table specifies the allowable combinations of sign classes and sign types, along with the use, permit, area, height and other pertinent limitations. Each column in the table has a Roman numeral heading, along with a corresponding summary title. The following descriptions of each summary title are incorporated into the table:

A. Class (I): The entries in this column identify and define the various categories of signs. Each sign must be categorized in a single class. For any sign that meets the definition of more than one class, the more restrictive class will control. **[Bill No. 97-1998]**

B. Structural Type (II): The entries in this column identify the various structural types of signs, as defined in Section 450.5, which may be used to display signs in a given class, subject to the limitations in the succeeding columns.

C. Zone or Use (III): The entries in this column establish the zone(s), e.g., B.M., B.R., etc., in which signs of the various class and structural type combinations may be displayed. In certain cases, a sign's permissibility is associated with a particular land use, e.g., farm market, in whichever zone(s) such use is otherwise permitted by the Zoning Regulations.

D. Permit Required (IV): The entries in this column indicate whether a specific permit is required for erection or maintenance of a sign. "None" indicates that a permit is not required, provided that the sign complies with all other applicable provisions of this section. "SE" indicates that each sign is permitted only as a special exception use authorized pursuant to Section 502 of the Zoning Regulations. "Use" indicates that a use permit for each sign must be obtained pursuant to Section 500.4 of the Zoning Regulations. **[Bill No. 97-98]**

E. Maximum Area/Face (V): The entries in this column establish the maximum area, in square feet, or the formula for calculating the maximum area, permitted within the face of each sign in a given class, regardless of structural type. Unless otherwise expressly stated, the maximum area is considered the limit for each sign face if more than one sign is permitted in Column VI. If double-faced signs are erected, only one face area is counted toward the maximum area allowed. For

freestanding signs, the maximum area may be increased pursuant to Section 450.5.B.4.d.

F. Maximum No./Premises (VI): The entries in this column establish the maximum number of separate signs in a given class, or the formula for determining the maximum number, which may be displayed on a single premises. Unless otherwise provided, the maximum number of signs applies to any combination of signs included in each separate lettered paragraph under Column II. A double-faced sign is considered one sign. Where a sign is permitted on the basis of a building, frontage or vehicular entrance, the sign must be erected only upon the building or frontage, or at or near the vehicular entrance, for which it is permitted.

G. Maximum Height (VII): The entries in this column specify the maximum allowable height for freestanding signs only, subject to the additional limitation in Section 450.5.B.4.c.

H. Illumination (VIII): The entries in this column indicate whether a sign may be illuminated, subject to the requirements of Section 450.6.B.

I. Additional Limitations (IX): The entries in this column indicate additional limitations or identify cross-references to applicable sign provisions elsewhere in Section 450.

(Cont'd on page 4-133)

TABLE OF SIGN REGULATIONS
PERMANENT SIGNS
(continued)

I	II	III	IV	V	VI	VII	VIII	IX
Class	**Structural Type**	**Zone or Use**	**Permit Required**	**Maximum Area/Face**	**Maximum No./Premises**	**Height**	**Illumination**	**Additional Limitations**
2. **COMMUNITY**, meaning a sign displaying the identity of a subdivision or residential community	Wall-mounted; Freestanding	All zones	Use	25 square feet	Not applicable	6 feet	Yes	Maximum two signs per highway intersection
3. **DIRECTIONAL**, meaning a sign intended principally for traffic control or to provide directions to an entity, activity or area elsewhere on the same premises	Wall-mounted; freestanding	Accessory, in all zones	Use	3 square feet	Not regulated	6 feet in nonresi-dential zones; 4 feet in residential zones	Yes	See Section 450.6.A.1 and A.2. May include company name or logo if not more than 30% of the total sign area
4. **DIRECTORY**, meaning an accessory sign displaying the identity and location of the nonresidential occupants of a building or development	Wall-mounted; freestanding	All zones; See Section 450.7.A	Use	Not regulated, except 25 square feet in S-E Zone	Not regulated	6 feet	Yes	See Section 450.7.A

B. Illumination. Illuminated signs are subject to the following:

1. The light emanating or reflecting from, or projecting onto, a sign shall be shaded, shielded or directed so that its intensity does not cause a glare or a similar adverse effect on neighboring properties, highways or parking areas.

2. Projected illumination must be reasonably confined to the face of the sign.

3. Except for that portion of a changeable copy sign displaying time or temperature, all elements illuminating a sign shall operate at a constant intensity so that no sign has the appearance of movement or of being illuminated by flashing, blinking, strobing, oscillating or alternating lights.

4. A sign may be displayed with reflectorized surfacing if illumination is prohibited.

C. Erection and maintenance.

1. All signs shall be erected in accordance with the applicable provisions of the Baltimore County Building Code.

2. All signs, including structural framework or supporting elements, shall be securely erected and maintained in a safe and presentable condition at all times through replacing defective, missing or damaged parts; cleaning; painting; or other acts necessary for proper upkeep, provided that maintenance may not be used to alter a sign's character to the extent that it is no longer permitted at its location.

3. For a lawfully erected sign, a building or use permit or a special exception is not required for changing the sign's face only, provided that this does not alter the sign's character to the extent that it is no longer permitted at its location.

450.7 Special requirements for particular classes.

A. Directory signs. In addition to the limitations of Section 450.4, directory signs are subject to the following:

1. The lettering on a directory sign indicating the names and locations of occupants may not be larger than two inches high. Other lettering may not be larger than three inches high.

2. In an OR-1, OR-2, O.T., M.R., M.L.R. or M.L. Zone, a directory sign is permitted if at least 75% of the tenants or functions have independent direct outside access to the building.

3. There must be a minimum 25 feet of separation between directory signs located on a single premises.

B. Changeable copy signs. In addition to the limitations of Section 450.4, changeable copy signs accessory to a planned shopping center or any separate commercial establishment in a business zone are subject to the following:

TABLE OF SIGN REGULATIONS
PERMANENT SIGNS
(continued)

I	II	III	IV	V	VI	VII	VIII	IX
Class	**Structural Type**	**Zone or Use**	**Permit Required**	**Maximum Area/Face**	**Maximum No./Premises**	**Height**	**Illumination**	**Additional Limitations**
5. ENTERPRISE, meaning an accessory sign which displays the identity and which may otherwise advertise the products or services associated with the individual organization	(a) Wall-mounted; projecting; canopy [Bill No. 117-2003]	B.L., B.M., B.R., C.B., B.L.R., M.L., M.L.R., M.H., M.R., excluding multi-tenant office, retail or industrial building	Use	Twice the length of the wall to which the signs are affixed	One in C.B. and M.R., otherwise three, no more than two on each facade	Not applicable	Yes, when the use to which sign is accessory is open, but not in C.B. or M.R.	No single sign larger than 50 square feet in C.B. and M.R.; 150 square feet otherwise
	(b) Freestanding	B.L.R, B.M., B.L., B.R., M.L.R., M.R., M.L., M.H., excluding Multi-tenant office, retail or industrial building	Use	75 square feet 100 square feet if premises has more than 300 feet of frontage	One per frontage	25 feet	Yes	See 450.3.5.g
	(c) Awning	B.L., B.M., B.R., C.B., B.L.R.	Use	See Section 450.5.B.1	See Section 450.5.B.1	Not applicable	No	

(m) next page

TABLE OF SIGN REGULATIONS
PERMANENT SIGNS
(continued)

I	II	III	IV	V	VI	VII	VIII	IX
Class	**Structural Type**	**Zone or Use**	**Permit Required**	**Maximum Area/Face**	**Maximum No./Premises**	**Height**	**Illumination**	**Additional Limitations**
ENTERPRISE, (cont'd)	(l) Wall-mounted; freestanding	Farmer's roadside stand, farm market, commercial agriculture or farm produce stand	Use	25 square feet total for all signs	Not regulated	6 feet	Yes	Minimum 10 feet setback from right-of-way and 75 feet from highway intersection center lines
	(m) Wall-mounted; projecting	Elderly housing facility in D.R., commercial use in D.R., R.C., R-O-A, R.O., R.C.C., B.M.Y.C.	Use	8 square feet; 6 square feet in R-O-A, 1 square foot in D.R.	One		No, but Yes for tearoom or restaurant	In R-O, may also have 15 square feet freestanding sign 6 feet high if on principal arterial adjoining and facing non-residentially zoned property; in R-O-A may also have 12 square feet freestanding monument sign, maximum height of 6 feet, including a 2-foot-high monument,

"IDENTITY" – SEE NEXT PAGE

DEALERSHIP — A commercial business organization licensed by the state to sell new motor vehicles. For the purpose of Section 450, the term "new motor vehicles" includes new "two-stage vehicles" as defined by state law.[2]

DOUBLE-FACED — Two freestanding, projecting or banner sign faces of equal dimensions and height having a horizontal angle between the vertical planes of the two sign faces of at least 330° or less and a distance between the two sign faces at their closest points of less than two feet.

ERECT — To display, construct, build, raise, assemble, place, affix, attach, paint, draw or otherwise bring a sign into being. "Erect" also means to reconstruct, enlarge, replace or relocate a sign previously erected. "Erect" does not mean the maintenance or repair of a sign governed by Section 450.6.C.

FACE — The flat planar surface within a continuous perimeter enclosing the outer limits of the message of a sign.

FRONTAGE — A lot line of a premises which is co-terminous with a right-of-way line of a highway to which the premises has or would be allowed pedestrian or vehicular access.

HEIGHT — The vertical distance from the highest point on a freestanding sign to the horizontal projection of the closest point at grade. In instances where it is evident that the grade has been artificially built up above the natural or surrounding finished grade, the vertical distance will be measured by projecting the natural or surrounding finished exterior grade to the closest point of the freestanding sign.

HIGHWAY — A street, road, motorway, expressway, freeway, alley, sidewalk, walkway or similar public facility used for vehicular or pedestrian travel, excluding a pedestrian concourse within an enclosed mall or any sidewalk on private property.

IDENTITY — The name of a person, organization or place displayed on a sign, including the street address or the trademark, logotype, initials or other symbol customarily associated with the name.

ILLUMINATION — The use of artificial light emanating from a sign, or directed at a sign from one or more sources external to the sign face, which makes the sign visible or more readily legible during non-daylight hours.

INSTITUTIONAL STRUCTURE — A hospital, school, volunteer fire company, church, house of worship or religious assembly.

MANSARD — An architectural element having a roof-like appearance which is above a building wall and has a slope of not less than 30° measured from the lowest to the highest point of the mansard.

MESSAGE — A communication, statement or display of information or ideas through written words, letters, numerals, symbols,images, colors, illumination or

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2 **Editor's Note: See § 13-113.2 of the Transportation Article of the Annotated Code of Maryland.**

County Board of Appeals of Baltimore County

JEFFERSON BUILDING
SECOND FLOOR, SUITE 203
105 WEST CHESAPEAKE AVENUE
TOWSON, MARYLAND, 21204
410-887-3180
FAX: 410-887-3182

March 4, 2008

NOTICE OF DELIBERATION

IN THE MATTER OF:

9414 BELAIR ROAD, LLC – LEGAL OWNER
Case No-07-285-A

Having heard this matter on 2/07/08, public deliberation has been scheduled for the following date /time:

DATE AND TIME : THURSDAY, MARCH 20, 2008 at 9:00 a.m.

LOCATION : Hearing Room #2, Second Floor, Jefferson Building

NOTE: ALL PUBLIC DELIBERATIONS ARE OPEN SESSIONS; HOWEVER, ATTENDANCE IS NOT REQUIRED. A WRITTEN OPINION /ORDER WILL BE ISSUED BY THE BOARD AND A COPY SENT TO ALL PARTIES.

Kathleen C. Bianco
Administrator

c: Counsel for Appellant /Petitioner : Howard L. Alderman, Jr., Esquire
Appellant /Petitioner : Patrick Kennedy, Member / 9414 Belair Road LLC

Geoffrey C. Schultz, PLS /McKee & Associates, Inc.

Cathy Werner
"Auggie" Olga Chesser
Dennis Eckard
Missy Wolinski

Office of People's Counsel
William J. Wiseman III /Zoning Commissioner
Pat Keller, Planning Director
Timothy M. Kotroco, Director /PDM

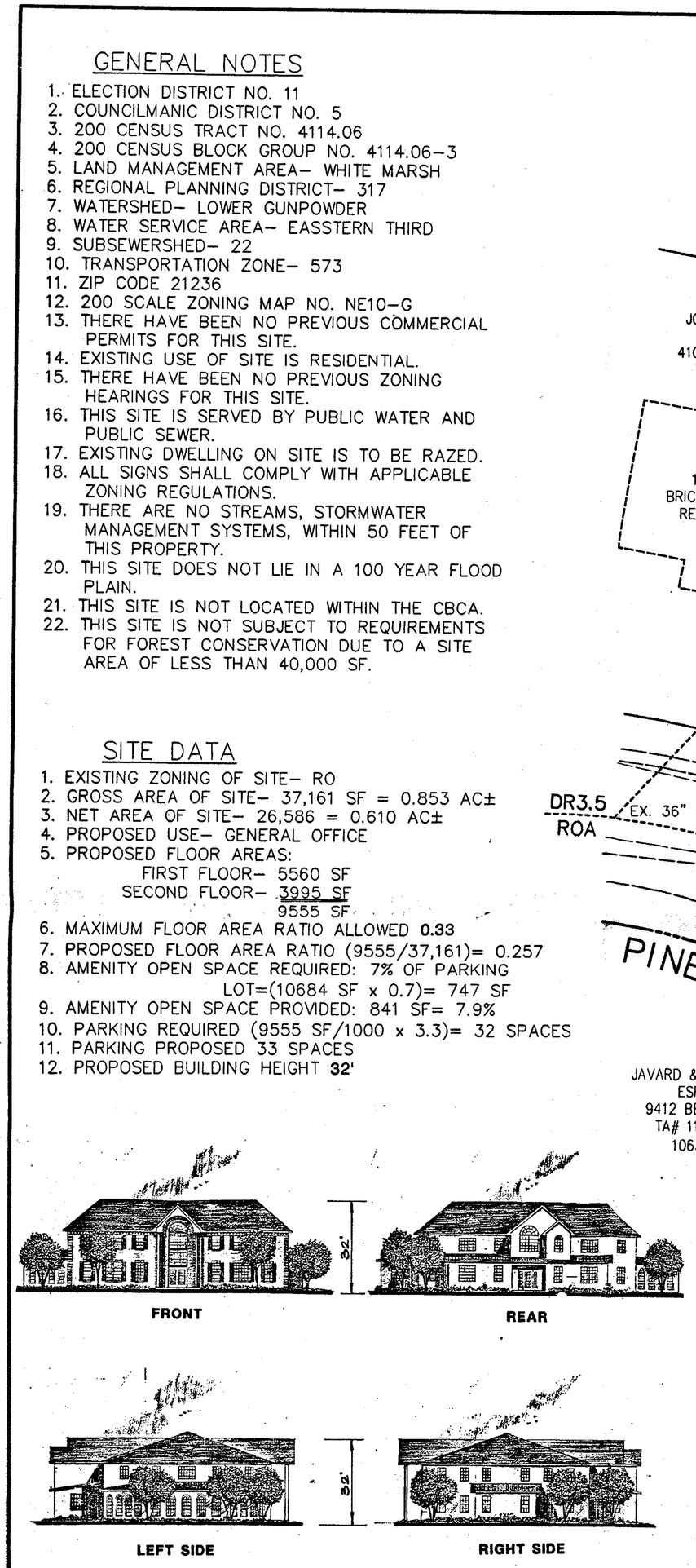
Copy to: 7-2-6

GENERAL NOTES

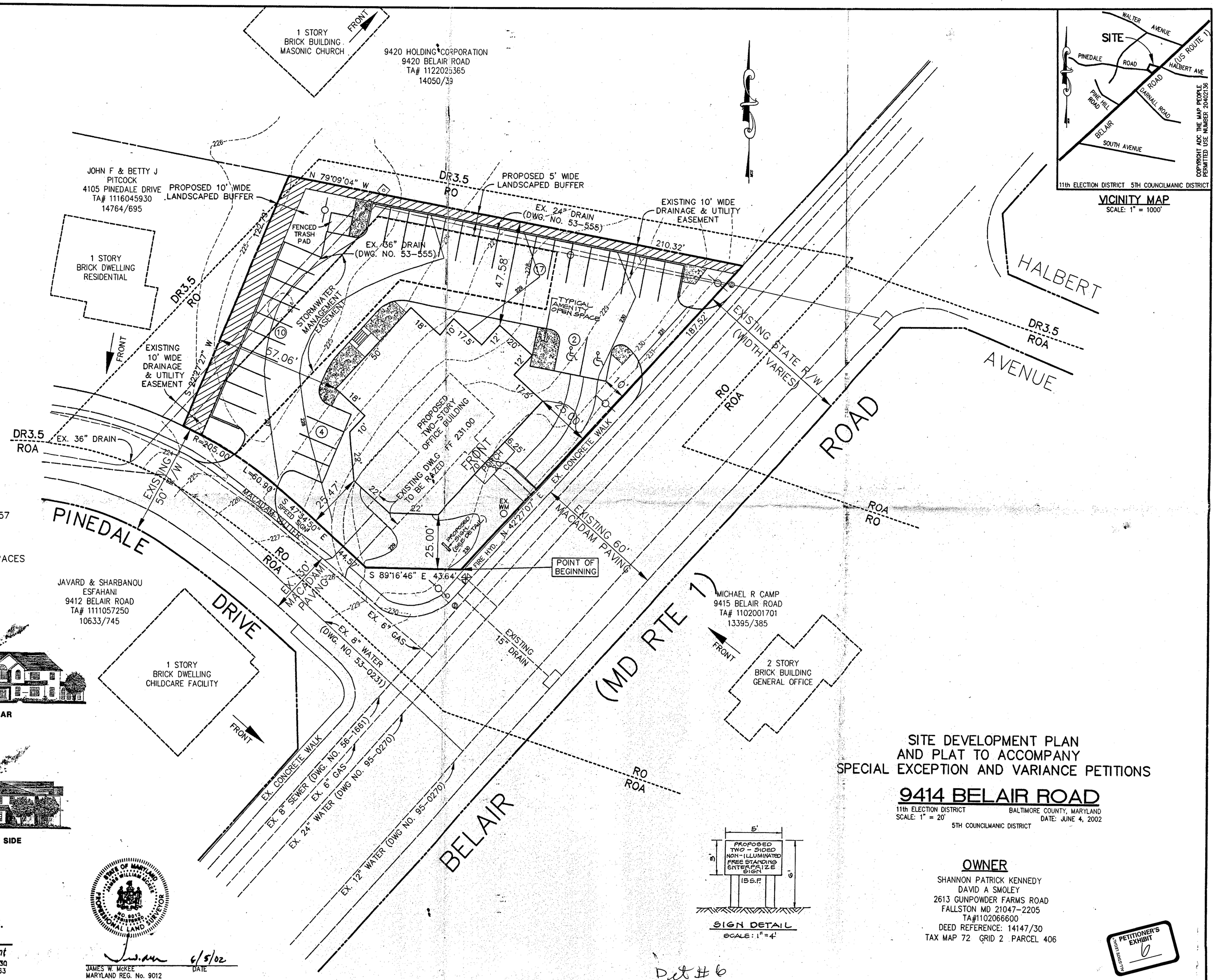
1. ELECTION DISTRICT NO. 11
2. COUNCILMANIC DISTRICT NO. 5
3. 200 CENSUS TRACT NO. 4114.06
4. 200 CENSUS BLOCK GROUP NO. 4114.06-3
5. LAND MANAGEMENT AREA- WHITE MARSH
6. REGIONAL PLANNING DISTRICT- 317
7. WATERSHED- LOWER GUNPOWDER
8. WATER SERVICE AREA- EASSTERN THIRD
9. SUBSEWERSHED- 22
10. TRANSPORTATION ZONE- 573
11. ZIP CODE 21236
12. 200 SCALE ZONING MAP NO. NE10-G
13. THERE HAVE BEEN NO PREVIOUS COMMERCIAL PERMITS FOR THIS SITE.
14. EXISTING USE OF SITE IS RESIDENTIAL.
15. THERE HAVE BEEN NO PREVIOUS ZONING HEARINGS FOR THIS SITE.
16. THIS SITE IS SERVED BY PUBLIC WATER AND PUBLIC SEWER.
17. EXISTING DWELLING ON SITE IS TO BE RAZED.
18. ALL SIGNS SHALL COMPLY WITH APPLICABLE ZONING REGULATIONS.
19. THERE ARE NO STREAMS, STORMWATER MANAGEMENT SYSTEMS, WITHIN 50 FEET OF THIS PROPERTY.
20. THIS SITE DOES NOT LIE IN A 100 YEAR FLOOD PLAIN.
21. THIS SITE IS NOT LOCATED WITHIN THE CBCA.
22. THIS SITE IS NOT SUBJECT TO REQUIREMENTS FOR FOREST CONSERVATION DUE TO A SITE AREA OF LESS THAN 40,000 SF.

SITE DATA

1. EXISTING ZONING OF SITE- RO
2. GROSS AREA OF SITE- 37,161 SF = 0.853 AC±
3. NET AREA OF SITE- 26,586 = 0.610 AC±
4. PROPOSED USE- GENERAL OFFICE
5. PROPOSED FLOOR AREAS:
   FIRST FLOOR- 5560 SF
   SECOND FLOOR- 3995 SF
   9555 SF
6. MAXIMUM FLOOR AREA RATIO ALLOWED **0.33**
7. PROPOSED FLOOR AREA RATIO (9555/37,161)= 0.257
8. AMENITY OPEN SPACE REQUIRED: 7% OF PARKING LOT=(10684 SF x 0.7)= 747 SF
9. AMENITY OPEN SPACE PROVIDED: 841 SF= 7.9%
10. PARKING REQUIRED (9555 SF/1000 x 3.3)= 32 SPACES
11. PARKING PROPOSED 33 SPACES
12. PROPOSED BUILDING HEIGHT **32'**



SCHEMATIC BUILDING ELEVATIONS
NO SCALE



VICINITY MAP
SCALE: 1" = 1000'

SIGN DETAIL
SCALE: 1"=4'

STATE OF MARYLAND JAMES WILLIAM MCKEE No. 9012 REGISTERED PROFESSIONAL LAND SURVEYOR

6/5/02
JAMES W. McKEE
MARYLAND REG. No. 9012
DATE

McKEE & ASSOCIATES, INC.
Engineering – Land Planning – Land Surveying
Natural Resource Planning – Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563

SITE DEVELOPMENT PLAN AND PLAT TO ACCOMPANY SPECIAL EXCEPTION AND VARIANCE PETITIONS

9414 BELAIR ROAD

11th ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20' DATE: JUNE 4, 2002
5TH COUNCILMANIC DISTRICT

OWNER

SHANNON PATRICK KENNEDY
DAVID A SMOLEY
2613 GUNPOWDER FARMS ROAD
FALLSTON MD 21047-2205
TA#1102066600
DEED REFERENCE: 14147/30
TAX MAP 72 GRID 2 PARCEL 406

PETITIONER'S EXHIBIT 6

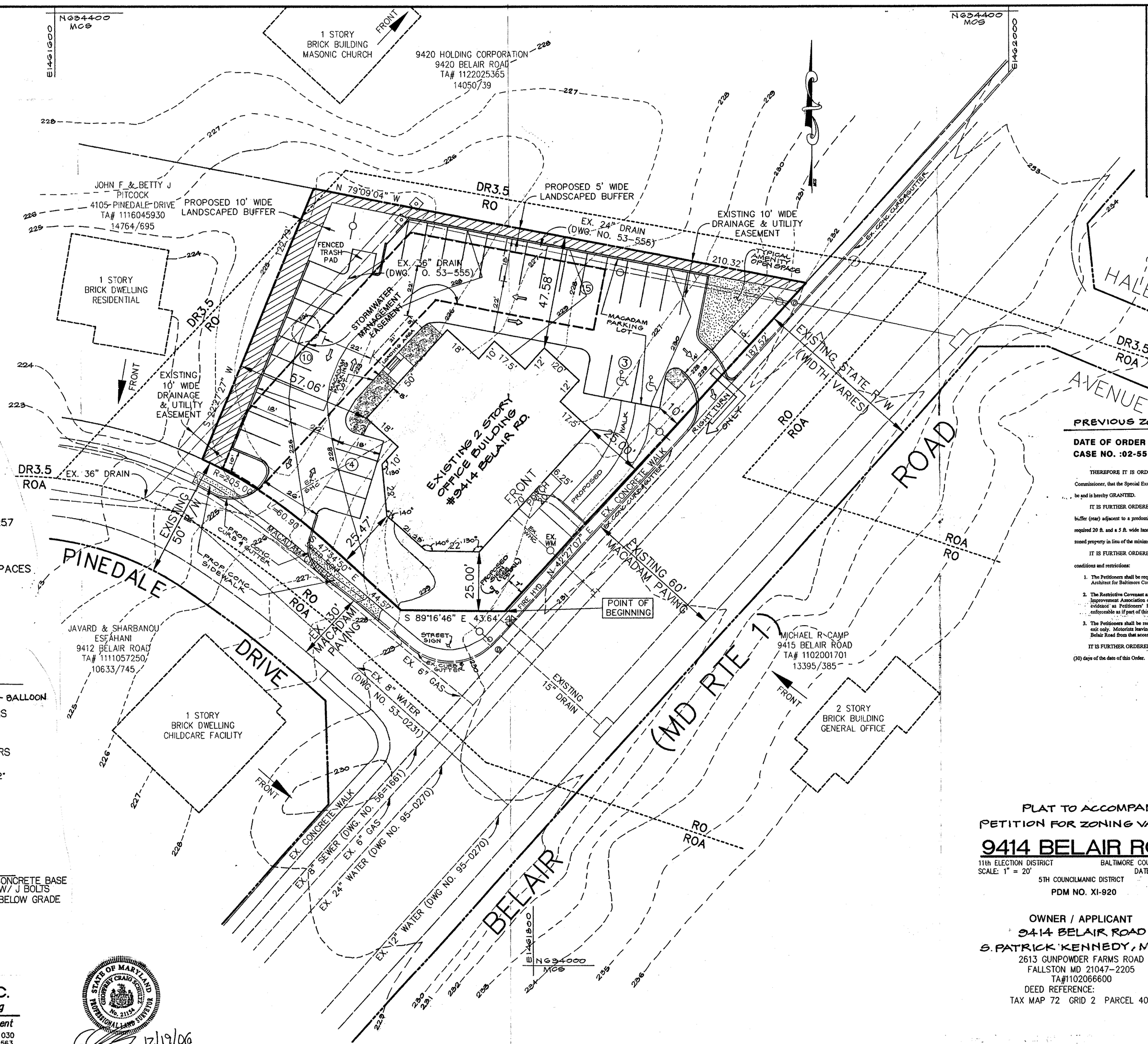
Dist #6

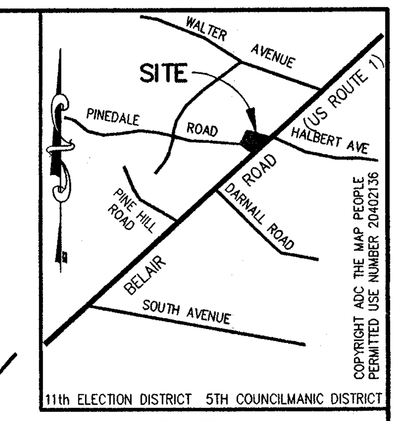
GENERAL NOTES

1. ELECTION DISTRICT NO. 11
2. COUNCILMANIC DISTRICT NO. 5
3. 200 CENSUS TRACT NO. 4114.06
4. 200 CENSUS BLOCK GROUP NO. 4114.06-3
5. LAND MANAGEMENT AREA – WHITE MARSH
6. REGIONAL PLANNING DISTRICT – 317
7. WATERSHED – LOWER GUNPOWDER
8. WATER SERVICE AREA – EASTERN THIRD
9. SUBSEWERSHED AREA – 22
10. TRANSPORTATION ZONE – 573
11. ZIP CODE – 21236
12. 200-SCALE ZONING MAP NO. NE10-G 070 A-1
13. THERE HAVE BEEN NO PREVIOUS COMMERCIAL PERMITS FOR THIS SITE.
14. EXISTING USE OF SITE IS RESIDENTIAL.
15. THERE HAVE BEEN NO PREVIOUS ZONING HEARINGS FOR THIS SITE PRIOR TO CASE NO. 02-551-XA.
16. THIS SITE IS SERVED BY PUBLIC WATER AND PUBLIC SEWER.
17. EXISTING DWELLING ON SITE IS TO BE RAZED AND DRIVEWAY TO BE REMOVED.
18. THIS PROPERTY IS NOT HISTORIC.
19. THERE ARE NO STREAMS, STORMWATER MANAGEMENT SYSTEMS, WITHIN 50 FEET OF THIS PROPERTY.
20. THIS SITE DOES NOT LIE IN A 100-YEAR FLOOD PLAIN.
21. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
22. THIS SITE IS NOT SUBJECT TO REQUIREMENTS FOR FOREST CONSERVATION DUE TO A SITE AREA OF LESS THAN 40,000 S.F.
23. AVERAGE DAILY TRIPS: 9,555 S.F./1,000 X 18 = 172
24. ILLUMINATION FOR OFF-STREET PARKING AREA WILL NOT REFLECT INTO RESIDENTIAL LOTS OR PUBLIC STREETS.
25. TYPICAL PARKING SPACE WIDTHS:
    STANDARD – 8 ½ X 18
    HANDICAPPED – 12 X 18
26. HANDICAPPED NOTE: SPACES SHALL BE PROVIDED IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR HANDICAPPED, CONTAINED IN CODE OF MARYLAND REGULATIONS 05.01.07.
27. THERE ARE NO KNOWN WELLS OR SEPTIC SYSTEMS ON THIS SITE OR WITHIN 100 FEET OF THE PROPERTY.

SITE DATA

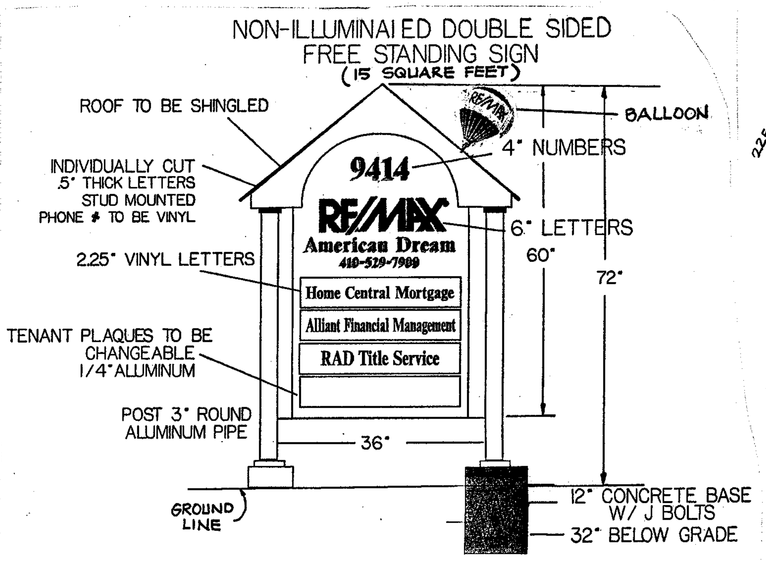
1. EXISTING ZONING OF SITE– RO
2. GROSS AREA OF SITE– 37,161 SF = 0.853 AC±
3. NET AREA OF SITE– 26,586 = 0.610 AC±
4. PROPOSED USE– GENERAL OFFICE
5. PROPOSED FLOOR AREAS:
   FIRST FLOOR– 5560 SF
   SECOND FLOOR– 3995 SF
   9555 SF
6. MAXIMUM FLOOR AREA RATIO ALLOWED = **0.33**
7. PROPOSED FLOOR AREA RATIO (9555/37,161)= 0.257
8. AMENITY OPEN SPACE REQUIRED: 7% OF PARKING LOT=(10684 SF x 0.7)= 747 SF
9. AMENITY OPEN SPACE PROVIDED: 841 SF= 7.9%
10. PARKING REQUIRED (9555 SF/1000 x 3.3)= 32 SPACES
11. PARKING PROPOSED 32 SPACES
12. PROPOSED BUILDING HEIGHT = 32'





11th ELECTION DISTRICT 5TH COUNCILMANIC DISTRICT

VICINITY MAP
SCALE: 1" = 1000'



SIGN DETAIL
NOT TO SCALE

PREVIOUS ZONING HEARING

DATE OF ORDER : 07/29/2002
CASE NO. :02-551-XA

THEREFORE IT IS ORDERED, this 29th day July, 2002, by this Deputy Zoning Commissioner, that the Special Exception to construct a Class B office building in an R-O zone, be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the variance relief to permit a 10 ft. wide landscape buffer (rear) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft. and a 5 ft. wide landscape buffer (side) adjacent to a predominantly residentially zoned property in lieu of the minimum required 20 ft., be and is hereby GRANTED.

IT IS FURTHER ORDERED, that the relief granted herein is subject to the following conditions and restrictions:

1. The Petitioners shall be required to submit a landscape plan to Avery Harden, Landscape Architect for Baltimore County, for his full review and approval.
2. The Restrictive Covenant and Improvements Agreement entered into with the Perry Hall Improvement Association dated October 7, 2000, a copy of which was submitted into evidence as Petitioners' Exhibit No. 2 shall be incorporated into this Order and enforceable as if part of this Order.
3. The Petitioners shall be required to designate the access to Belair Road as a right-turn exit only. Motorists leaving the subject site shall not be permitted to make left turns on Belair Road from that access point.

IT IS FURTHER ORDERED, that any appeal of this decision must be made within thirty (30) days of the date of this Order.

TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

PLAT TO ACCOMPANY
PETITION FOR ZONING VARIANCE

9414 BELAIR ROAD

11th ELECTION DISTRICT BALTIMORE COUNTY, MARYLAND
SCALE: 1" = 20' DATE: 12-19-06
5TH COUNCILMANIC DISTRICT
PDM NO. XI-920

OWNER / APPLICANT
9414 BELAIR ROAD LLC
S. PATRICK KENNEDY, MEMBER
2613 GUNPOWDER FARMS ROAD
FALLSTON MD 21047-2205
TA#1102066600
DEED REFERENCE:
TAX MAP 72 GRID 2 PARCEL 406

DESIGN AND DRAWING BASED ON MARYLAND COORDINATE SYSTEM
HORIZONTAL - NAD 83/91
VERTICAL - NAVD 88

McKEE & ASSOCIATES, INC.
Engineering – Land Planning – Land Surveying
Natural Resource Planning – Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563

STATE OF MARYLAND GREGORY CRAIG SCHULTZ No. 21154 PROFESSIONAL LAND SURVEYOR
12/19/06

Pet #

07-285-A

GENERAL NOTES

1. ELECTION DISTRICT NO. 11
2. COUNCILMANIC DISTRICT NO. 5
3. 200 CENSUS TRACT NO. 4114.06
4. 200 CENSUS BLOCK GROUP NO. 4114.06-3
5. LAND MANAGEMENT AREA – WHITE MARSH
6. REGIONAL PLANNING DISTRICT – 317
7. WATERSHED – LOWER GUNPOWDER
8. WATER SERVICE AREA – EASTERN THIRD
9. SUBSEWERSHED AREA – 22
10. TRANSPORTATION ZONE – 573
11. ZIP CODE – 21236
12. 200-SCALE ZONING MAP NO. NE10-G
13. THERE HAVE BEEN NO PREVIOUS COMMERCIAL PERMITS FOR THIS SITE.
14. EXISTING USE OF SITE IS RESIDENTIAL.
15. THERE HAVE BEEN NO PREVIOUS ZONING HEARINGS FOR THIS SITE PRIOR TO CASE NO. 02-551-XA.
16. THIS SITE IS SERVED BY PUBLIC WATER AND PUBLIC SEWER.
17. EXISTING DWELLING ON SITE IS TO BE RAZED AND DRIVEWAY TO BE REMOVED.
18. THIS PROPERTY IS NOT HISTORIC.
19. THERE ARE NO STREAMS, STORMWATER MANAGEMENT SYSTEMS, WITHIN 50 FEET OF THIS PROPERTY.
20. THIS SITE DOES NOT LIE IN A 100-YEAR FLOOD PLAIN.
21. THIS SITE IS NOT LOCATED WITHIN THE CHESAPEAKE BAY CRITICAL AREA.
22. THIS SITE IS NOT SUBJECT TO REQUIREMENTS FOR FOREST CONSERVATION DUE TO A SITE AREA OF LESS THAN 40,000 S.F.
23. AVERAGE DAILY TRIPS: 9,555 S.F./1,000 X 18 = 172
24. ILLUMINATION FOR OFF-STREET PARKING AREA WILL NOT REFLECT INTO RESIDENTIAL LOTS OR PUBLIC STREETS.
25. TYPICAL PARKING SPACE WIDTHS:
    STANDARD – 8 ½ X 18
    HANDICAPPED – 12 X 18
26. HANDICAPPED NOTE: SPACES SHALL BE PROVIDED IN ACCORDANCE WITH THE MARYLAND BUILDING CODE FOR HANDICAPPED, CONTAINED IN CODE OF MARYLAND REGULATIONS 05.01.07.
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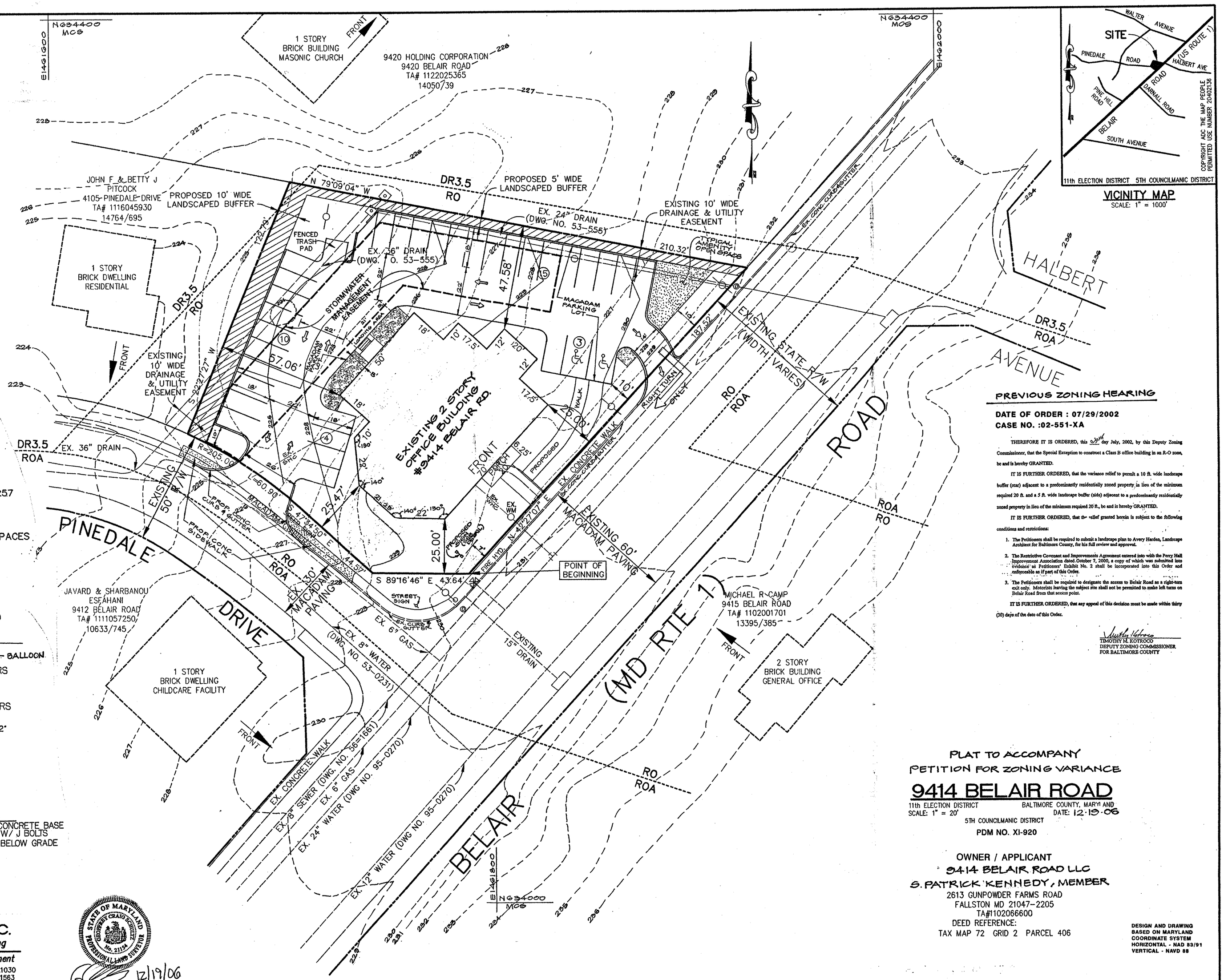

VICINITY MAP
SCALE: 1" = 1000'

PREVIOUS ZONING HEARING

DATE OF ORDER : 07/29/2002
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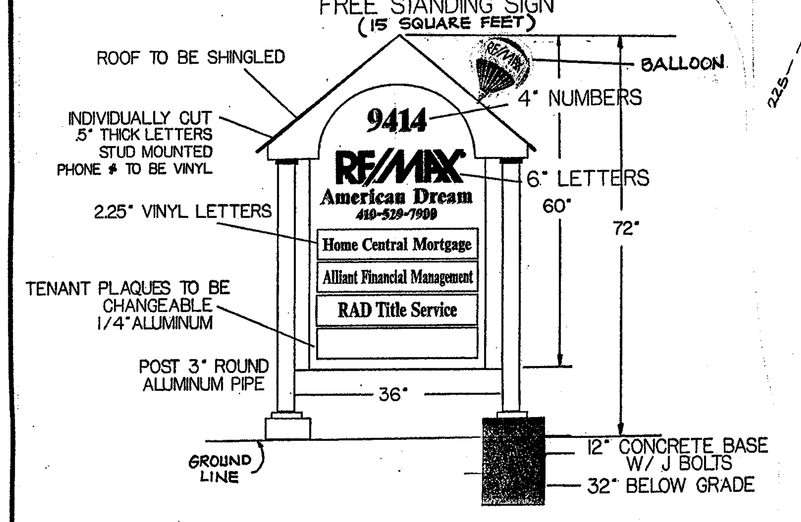
Timothy Kotroco
TIMOTHY M. KOTROCO
DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

NON-ILLUMINAIED DOUBLE SIDED FREE STANDING SIGN
(15 SQUARE FEET)



SIGN DETAIL
NOT TO SCALE

STATE OF MARYLAND GEOFFREY CRAIG SCHILLE No. 21134 PROFESSIONAL LAND SURVEYOR
12/19/06

McKEE & ASSOCIATES, INC.
Engineering – Land Planning – Land Surveying
Natural Resource Planning – Real Estate Development
5 SHAWAN ROAD, Suite 1 COCKEYSVILLE, MARYLAND 21030
TELEPHONE: (410) 527-1555 FACSIMILE: (410) 527-1563

PLAT TO ACCOMPANY
PETITION FOR ZONING VARIANCE

9414 BELAIR ROAD

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SCALE: 1" = 20' DATE: 12·19·06
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PDM NO. XI-920

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S. PATRICK KENNEDY, MEMBER
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FALLSTON MD 21047-2205
TA#1102066600
DEED REFERENCE:
TAX MAP 72 GRID 2 PARCEL 406

DESIGN AND DRAWING BASED ON MARYLAND COORDINATE SYSTEM
HORIZONTAL - NAD 83/91
VERTICAL - NAVD 88

07-285-A

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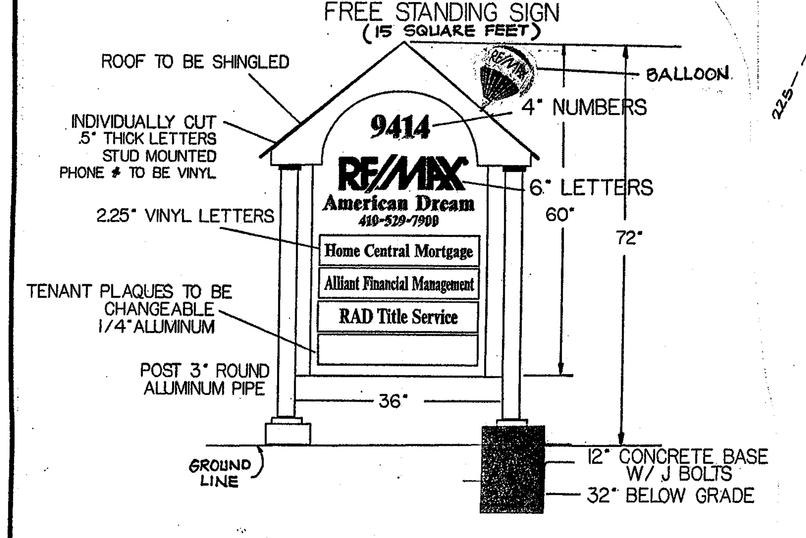

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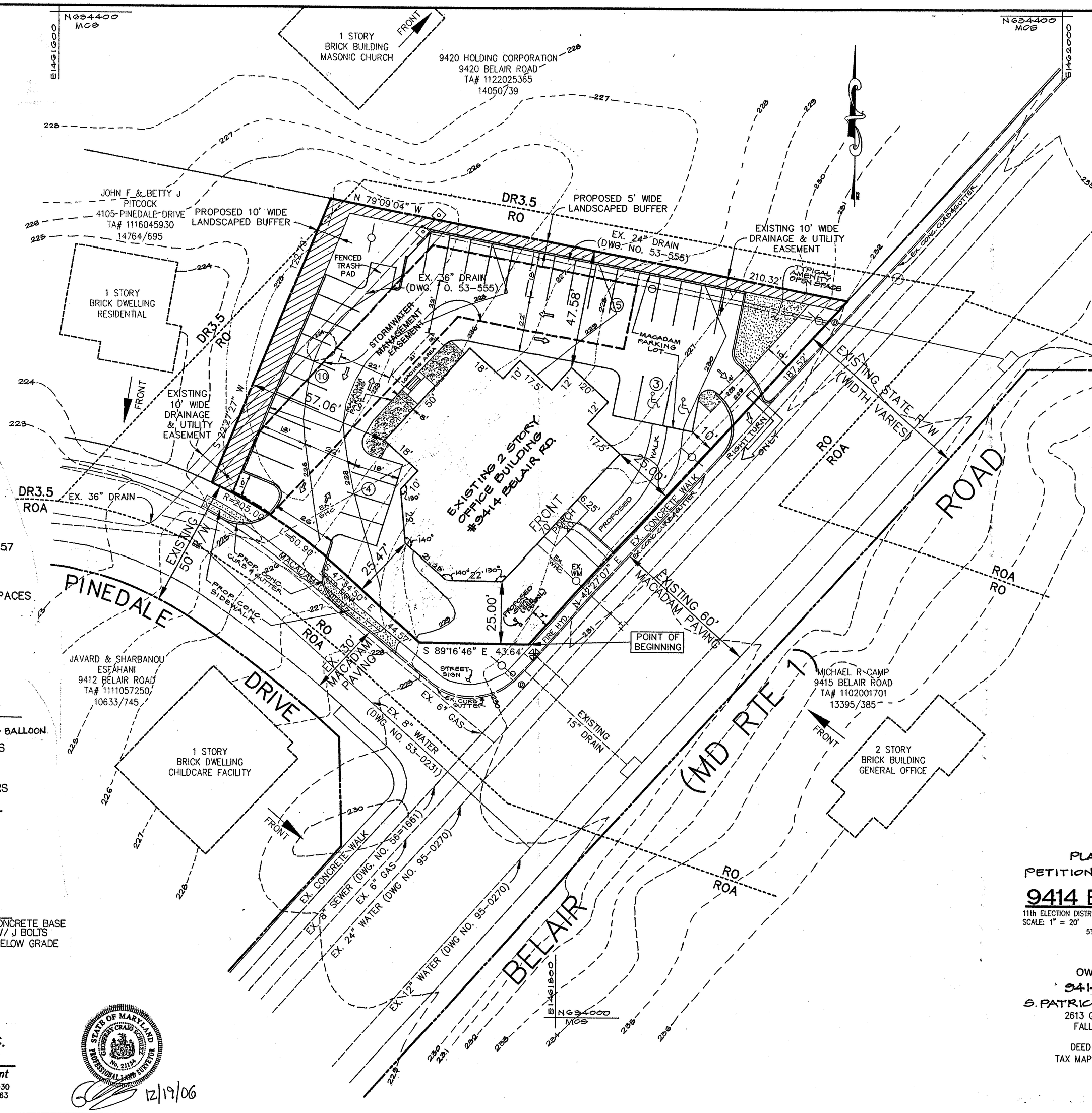

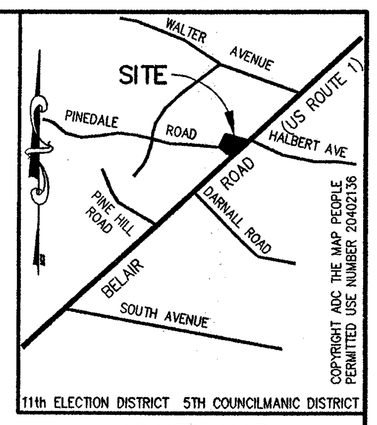

VICINITY MAP

SCALE: 1" = 1000'

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CASE NO. :02-551-XA

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DEPUTY ZONING COMMISSIONER
FOR BALTIMORE COUNTY

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9414 BELAIR ROAD

11th ELECTION DISTRICT
5TH COUNCILMANIC DISTRICT
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SCALE: 1" = 20'
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PDM NO. XI-920

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DESIGN AND DRAWING BASED ON MARYLAND COORDINATE SYSTEM HORIZONTAL - NAD 83/91 VERTICAL - NAVD 88

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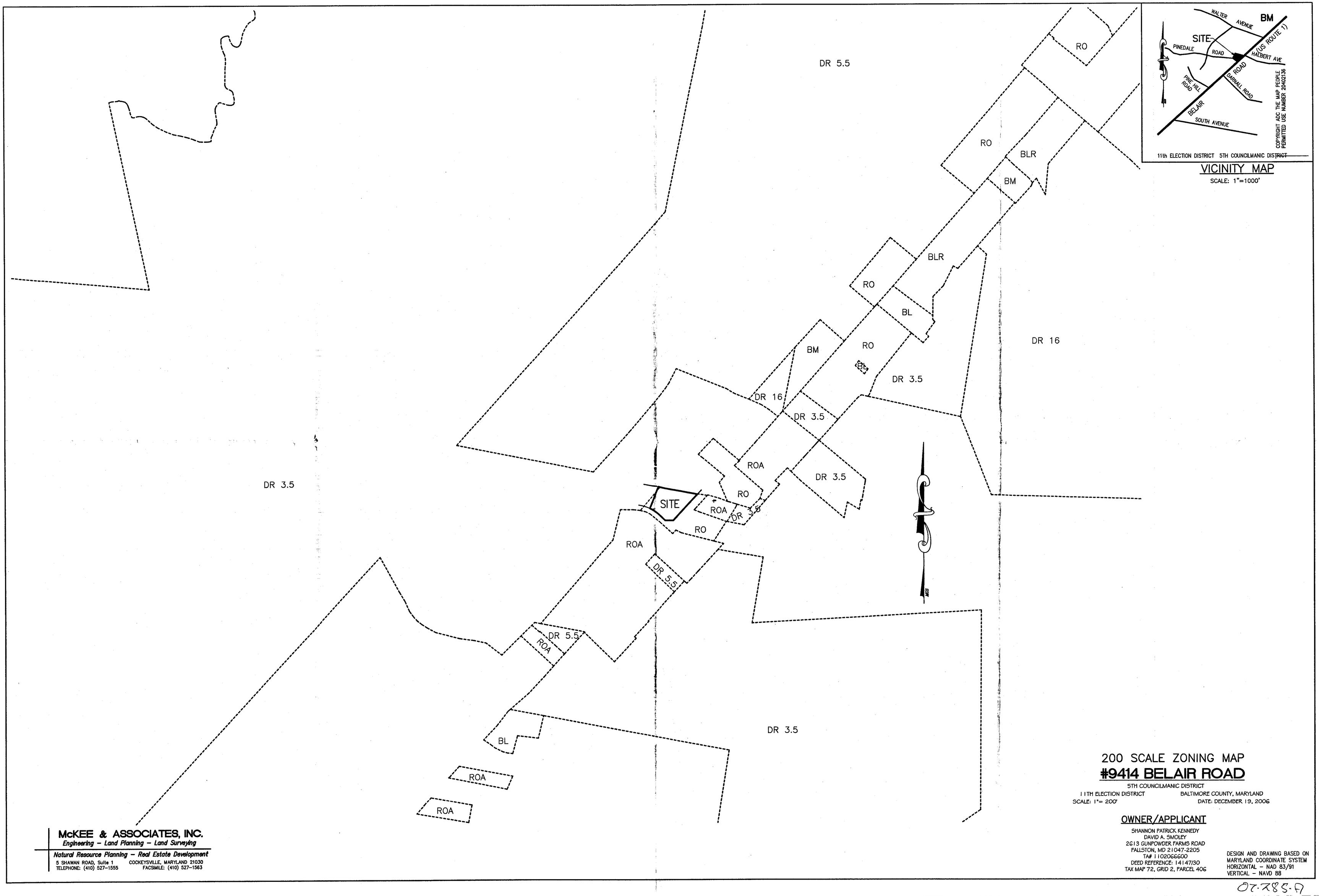
STATE OF MARYLAND
GEOFFREY CRAIG SCHUTZ
No. 21154
PROFESSIONAL LAND SURVEYOR

12/19/06

07-285-A



200 SCALE ZONING MAP

#9414 BELAIR ROAD

5TH COUNCILMANIC DISTRICT

11TH ELECTION DISTRICT — BALTIMORE COUNTY, MARYLAND

SCALE: 1"= 200' — DATE: DECEMBER 19, 2006

OWNER/APPLICANT

SHANNON PATRICK KENNEDY
DAVID A. SMOLEY
2613 GUNPOWDER FARMS ROAD
FALLSTON, MD 21047-2205
TAX # 1102066600
DEED REFERENCE: 14147/30
TAX MAP 72, GRID 2, PARCEL 406

DESIGN AND DRAWING BASED ON
MARYLAND COORDINATE SYSTEM
HORIZONTAL – NAD 83/91
VERTICAL – NAVD 88

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